IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WP(C).No. 38657 of 2015 (F)

PETITIONER:

C.A.SUBAIR,
PROPRIETOR, M/S SHAH IN SHAH ENTERPRISES,
PONJASSERY.PO, PERUMBAVOOR.

BY ADVS.SRI.P.S.SOMAN
SMT.T.RADHAMANY

RESPONDENTS:
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1. **ASSISTANT COMMISSIONER (ASSESSMENT),**
   COMMERCIAL TAXES, PERUMBAVOOR.

2. **THE DEPUTY COMMISSIONER(APPEALS),**
   DEPARTMENT OF COMMERCIAL TAXES
   COMMERCIAL TAX COMPLEX, THEVARA.

3. **INSPECTING ASSISTANT COMMISSIONER,**
   COMMERCIAL TAXES, MUVATTUPUZHA.

BY GOVERNMENT PLEADER SRI.R.RANJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 38657 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 TRUE COPY OF THE ASSESSMENT ORDER UNDER THE CST ACT DATED 18-05-2015 FOR THE YEAR 2009-10

P2 TRUE COPY OF THE APPEAL MEMORANDUM FILED BEFORE THE 2ND RESPONDENT DATED 15-06-2015 AGAINST THE ASSESSMENT UNDER CST ACT FOR THE YEAR 2009-10

P3 TRUE COPY OF THE PETITION FOR EARLY HEARING OF THE APPEAL FILED AGAINST THE CST ASSESSMENT FOR THE YEAR 2009-10 DATED 15-06-2015

P4 TRUE COPY OF THE PETITION FOR STAY OF COLLECTION OF DISPUTED CST FOR THE YEAR 2009-10 DATED 15-06-2015

P5 TRUE COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 3RD RESPONDENT DATED 17.08.2015 FOR THE YEAR 2009-10

P6 TRUE COPY OF THE STAY ORDER NO.KVAT-1293/15 DATED 20-11-2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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K.VINOD CHANDRAN, J

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W.P.(C).No. 38657 of 2015

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Dated this the 21st day of December, 2015

J U D G M E N T

The petitioner is a dealer under the Kerala Value Added Tax Act, 2003 and the Central Sales Tax Act. Against Ext.P1 assessment order, the petitioner had preferred an appeal and stay petition before the respondent. The respondent has now passed Ext.P6 order on the stay petition directing the petitioner to pay 30% of the amount as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide the assessment order.

2. Ext.P6 does not disclose any reasons. Considering the decision reported in Archana Agencies v. Commercial Tax Officer (2014 (2) KLT 715) wherein this Court held that an authority considering a stay petition is bound to give reasons even while granting conditional stay, Ext.P6 is set aside. The 2nd respondent is directed to reconsider the matter and pass fresh

orders in the stay petition, after hearing the petitioner, within one month from the date of receipt of a copy of this judgment. Recovery steps if any shall be kept in abeyance till fresh orders are passed by the 2^{nd} respondent as directed above.

Writ petition is diposed of.

Sd/-
K.VINOD CHANDRAN,
Judge

jma //true copy//

P.A to Judge