**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937**

**WP(C).No. 39034 of 2015 (D)**
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**PETITIONER(S):**
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**M/S. ESAF SHG FEDERATION,**
**2ND FLOOR, HEPHZIBH COMPLEX,**
**MANNUTHY POST, THRISSUR - 680 651,**
**REPRESENTED BY AMBIKA SOMAN, MANAGER.**

**BY ADVS.SRI.HARISANKAR V. MENON**
**SMT.MEERA V.MENON**

**RESPONDENT(S):**
**--------------------------**

1. **THE INCOME TAX OFFICER,**
   **WARD - 2(4), AAYAKAR BHAVAN,**
   **ST NAGAR, THRISSUR - 680 001.**

2. **THE COMMISSIONER OF INCOME TAX (APPEALS),**
   **ERNAKULAM, KOCHI - 16.**

**BY ADV.SRI.JOSE JOSEPH, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**msv/**

**WP(C).No. 39034 of 2015 (D)**
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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**
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**EXT.P1: COPY OF ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT.**

**EXT.P2: COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

**EXT.P3: COPY OF STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

**EXT.P4: COPY OF ORDER ISSUED BY THE 2ND RESPONDENT.**

**RESPONDENT(S)' EXHIBITS:**
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**NIL**

**//TRUE COPY//**

**P.S.TO JUDGE**

Msv/

**A.K.JAYASANKARAN NAMBIAR, J.**
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**W.P.(C). No. 39034 of 2015**
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**Dated this the 22nd day of December, 2015**

# JUDGMENT

Against Ext.P1 assessment order for the assessment year 2012-2013 under the Income Tax Act, the petitioner had preferred Ext.P2 appeal before the 2nd respondent. Along with the appeal, the petitioner had also preferred Ext.P3 stay petition. The 2nd respondent has now passed Ext.P4 order directing the petitioner to pay 50% 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. In the writ petition, the petitioner impugns the said conditional orders of stay, inter alia, on the ground that the 2nd respondent had not exercised his discretion validly while passing the said order.

3. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ

petition with the following directions:-

(i) In Ext.P4 order, the 2nd respondent does not state reasons as to why the petitioner was required to deposit the amounts as a condition for the grant of stay. This Court has held in Archana Agencies v. Commercial Tax Officer **[2014(2) KLT 715]** that an authority considering a stay petition is bound to give reasons even while granting conditional stay.

(ii) Ext.P4 order is quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petitions filed by the petitioner, within one month from the date of receipt of a copy of this judgment after affording an opportunity of hearing to the petitioner.

(iii) Recovery steps, initiated against the petitioner shall be kept in abeyance till such time as fresh orders are passed by the 2nd respondent, as directed above, and communicated to the petitioner.

Sd/-

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

das /22.12.15