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. 39175 of 2015 (V)

PETITIONER(S):

M/S.PAE LTD., 870 D1,
KALATHIPARAMBIL BUILDING, MAROTTICHODU,
EDAPPALLY P.O., ERNAKULAM-682 024,
REPRESENTED BY ITS AUTHORISED SIGNATORY
SREEJITH. N.

BY ADVS.SRI.RAJESH NAMBIAR,
SRI.N.R.SAJ,
SMT.SINDHU K.NAMBIAR.

RESPONDENT(S):
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1. ASST. COMMISSIONER,
   SPECIAL CIRCLE-III, ERNAKULAM-682 023.

2. DEPUTY COMMISSIONER (APPEALS)-II,
   COMMERCIAL TAXES, ERNAKULAM-682 023.

BY GOVT. PLEADER SRI.R. RANJITH.

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

rs.

WP(C).No. 39175 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	COPY OF THE ASSESSMENT ORDER DATED 03/09/2015 FOR THE YEAR 2006-07.
EXT.P2	COPY OF THE ASSESSMENT ORDER DATED 10/09/2015 FOR THE YEAR 2007-08.
EXT.P3	COPY OF THE RECTIFIED ASSESSMENT ORDER DATED 17/11/2015 FOR THE YEAR 2006-07.
EXT.P4	COPY OF THE RECTIFIED ASSESSMENT ORDER DATED 06/11/2015 FOR THE YEAR 2007-08.
EXT.P5	COPY OF THE APPEAL FILED AGAINST EXT.P3 ASSESSMENT ORDER.
EXT.P6	COPY OF THE APPEAL FIELD AGAINST EXT.P4 ASSESSMENT ORDER.
EXT.P7	COPY OF THE STAY PETITION FILED IN EXT.P5 APPEAL.
EXT.P8	COPY OF THE STAY PETITION FILED IN EXT.P6 APPEAL.
EXT.P9	COPY OF THE ORDER DATED 07/12/2015 IN EXT.P7 STAY PETITION.
EXT.P10	COPY OF THE ORDER DATED 07/12/2015 IN EXT.P8 STAY PETITION.
EXT.P11	COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2005-06.
EXT.P12	COPY OF THE INTERIM ORDER DATED 03/12/2015 IN WP(C).NO.36612/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C).No.39175 of 2015

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Dated this the 22nd day of December, 2015

<u>J U D G M E N T</u>

Against Exts.P3 and P4 assessment orders, petitioner preferred Exts.P5 and P6 appeals before the 2nd respondent. Along with the appeals, the petitioner had also preferred Exts.P7 and P8 stay petitions. The 2nd respondent has now passed Exts.P9 and P10 orders 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 Exts.P3 and P4 assessment orders.

2. In the writ petition, the petitioner impugns the said conditional order of stay, inter alia, on the ground that the 2nd respondent had not exercised his discretion validly while passing the said order. Moreover the specific the plea of the petitioner with regard to limitation was not considered by the 2nd respondent while passing Exts.P9 and P10 orders.

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

On a consideration of the facts and circumstances of the case and submissions made across the bar, I dispose the writ petition with the following directions:-

(i) In Exts.P9 and P10 orders, 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) Exts.P9 and P10 orders are quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petition, within one month from the date of receipt of a copy of this judgment after hearing the petitioner.

(iii) Recovery steps, if any, 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/22.12.15