

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

WP(C).No. 39675 of 2015 (H)

PETITIONER :

**MANDHIRA PROPERTY DEVELOPERS & INTERIORS PVT. LTD. NO. 3/340
TANTALAM ROAD, VELLATTANJUR P.O.,
THRISSUR (PRESENT ADDRESS : FLAT NO. 7B, INFRA SPLENDOUR
NEAR ANJUMANA TEMPLE, EDAPPALLY, KOCHI 682 024
REPRESENTED BY ITS MANAGING DIRECTOR.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR**

RESPONDENT(S) :

- 1. COMMERCIAL TAX OFFICER (WORKS CONTRACT)
POOTHOLE, THRISSUR – 680 004.**
- 2. THE ASST. COMMISSIONER (APPEALS)
COMMERCIAL TAXES, POOTHOLE
THRISSUR – 680 004.**

R1 & R2 BY GOVT. PLEADER SRI. R. RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF ASSESSMENT ORDERS DATED 30-6-2014 ISSUED BY THE
1ST RESPONDENT FOR THE YEAR 2012-13 (4TH QUARTER).

EXT.P1(a) COPY OF ASSESSMENT ORDERS DATED 30-6-2014 ISSUED BY THE
1ST RESPONDENT FOR THE YEAR 2013-14 .

EXT.P2 COPY OF APPEAL MEMORANDUM AGAINST EXT.P1.

EXT.P2(a) COPY OF APPEAL MEMORANDUM AGAINST EXT.P1(a).

EXT.P3 COPY OF STAY PETITION IN EXT.P2 APPEAL.

EXT.P3(a) COPY OF STAY PETITION IN EXT.P2(a) APPEAL.

EXT.P4 COPY OF ORDER DATED 30-10-2015 ISSUED BY THE 2ND
RESPONDENT ON EXT.P3.

EXT.P4(a) COPY OF ORDER DATED 30-10-2015 ISSUED BY THE 2ND
RESPONDENT ON EXT.P4(a).

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.39675 of 2015

Dated this the 23rd day of December 2015

JUDGMENT

Against Ext.P1 series of Assessment orders, petitioner preferred Ext.P2 series of appeals before the 2nd respondent. Along with the appeals, the petitioner had also preferred Ext.P3 series of stay petitions. The 2nd respondent has now passed Ext.P4 series of 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 Ext.P1 series of 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.

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 Ext.P4 series of 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) Ext.P4 series of orders is 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/