

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. 39740 of 2015 (N)

PETITIONER :

**V.A.VINU
PROPRIETOR
V.M. PLAY BOARDS
CHELAMATTOM
OKKAL P.O., PARUMBAVOOR.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN
SMT.K.HYMAVATHY**

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX OFFICER – I
IST CIRCLE, PERUMBAVOOR – 683 542.**
- 2. THE ASSISTANT COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES
ERNAKULAM – 682 015.**
- 3. DEPUTY TAHSILDAR (REVENUE RECOVERY)
TALUK OFFICE, KUNNATHUNAD
PERUMBAVOOR – 683 542.**

R1 TO R3 BY GOVT. PLEADER SMT. LILLY K.T.

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

Mn

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : THE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST
RESPONDENT FOR THE YEAR 2008-09 (CST) DATED 24.10.2014.
- EXT.P2 THE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST
RESPONDENT FOR THE YEAR 2009-10 (CST) DATED 30.09.2014.
- EXT.P3 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND
RESPONDENT FOR THE YEAR 2008-09 (CST) DATED 27.6.2015..
- EXT.P4 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND
RESPONDENT FOR THE YEAR 2009-10 (CST) DATED 17.11.2014.
- EXT.P5 COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT FOR THE YEAR 2008-09 (CST) DATED
27.6.2015.
- EXT.P6 COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT FOR THE YEAR 2009-10 (CST) DATED
17.11.2014.
- EXT.P7 COPY OF THE INTERIM ORDER PASSED BY THE 2ND RESPONDENT
FOR THE YEAR 2008-09 (CST) DATED 14.9.2015.
- EXT.P8 COPY OF THE INTERIM ORDER PASSED BY THE 2ND RESPONDENT
FOR THE YEAR 2009-10 (CST) DATED 27.10.2015.
- EXT.P9 COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE REVENUE
RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE YEAR
2008-09 DATED 9.8.2015.
- EXT.P10 COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE REVENUE
RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE YEAR
2009-10 DATED 9.8.2015.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.39740 of 2015

Dated this the 23rd day of December 2015

JUDGMENT

Against Exts.P1 and P2 Assessment orders, petitioner preferred Exts.P3 and P4 appeals before the 2nd respondent. Along with the appeals, the petitioner had also preferred Exts.P5 and P6 stay petitions. The 2nd respondent has now passed Exts.P7 and P8 orders on the stay petitions directing the petitioner to pay 30% of the amount in Ext.P7 and an amount of Rs.1,00,000/- in Ext.P8, as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Exts.P1 and P2 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 Exts.P7 and P8 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.P7 and P8 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/