IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

ITA.No. 31 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN ITA 669/COCH/2013 of
I.T.A.TRIBUNAL,COCHIN BENCH DATED 28.08.2014 (AY-2005-2006)

APPELLANT(S)/APPELLANT:

M/S.N.J.THOMAS & CO.,
MATTETHARA COLONY, YWCA LANE
KOTTAYAM, REPRESENTED BY ITS MANAGING
PARTNER - SIBY THOMAS.

BY ADVS.SRI.V.V.ASOKAN (SR.)
SRI.K.I.MAYANKUTTY MATHER
SRI.R.JAIKRISHNA
SRI.ARUN KUMAR.P

RESPONDENT(S)/RESPONDENT:
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1. ASSISTANT COMMISSIONER OF INCOME TAX,
   CIRCLE I,
   KOTTAYAM - 673 001.

2. COMMISSIONER OF INCOME TAX,
   CENTRAL, KOCHI - 682 015.

BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON 20-02-2015, ALONG WITH ITA NO.33/15, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE-A : COPY OF THE PENALTY NOTICE ISSUED UNDER SECTION 274 READ WITH SECTION 271 OF THE INCOME TAX ACT.

ANNEXURE-B : COPY OF THE ORDER OF THE INCOME TAX APPELLATE TRIBUNAL, KOCHI BENCH IN ITA 237/COCH/2010.

ANNEXURE-C : COPY OF PENALTY ORDER PASSED BY R1.

ANNEXURE-D : COPY OF APPELLATE ORDER OF THE COMMISSIONER OF INCOME TAX (APPEALS)-IV, KOCHI.

ANNEXURE-E : COPY OF ORDER OF THE INCOME TAX APPELLATE TRIBUNAL IN ITA 669/COCH/2013.

//TRUE COPY//

PA TO JUDGE.

jg

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

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ITA Nos.31 & 33 of 2015

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Dated this the 20th day of February, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. We have heard the learned senior counsel for the appellant in these appeals.

2. The issue relates to penalty on the basis of undisputed and indisputable fact that in respect of different transactions, the assessee had not furnished particulars but had concealed relevant particulars or had furnished inaccurate particulars. As rightly noted by the learned Income Tax Appellate Tribunal, the only contention of the assessee is that the constructions were with charitable institutions and they were done without any profit and, therefore, it was not disclosed. That reason cannot be offered for non-disclosure of relevant particulars and details, which could not have been concealed. The Tribunal has rightly noted that there may be profit or loss but still the assessee is expected to disclose

all the material factors before the assessing authority. The penalty order has found its approval at the hands of the superior statutory authorities and ultimately the Tribunal. We do not find our way to hold that the impugned order calls for interference. These appeals, therefore, fail.

In the result, these appeals are dismissed in limine.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)

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