IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

OT.Rev.No. 120 of 2012 ()

AGAINST THE ORDER/JUDGMENT IN TAVAT 1249/2011 of KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM DATED 09-07-2012

REVISION PETITIONER(S)/ RESPONDENT/ REVENUE:

STATE OF KERALA,
REPRESENTED BY THE DEPUTYH COMMISSIONER (LAW)
COMMERCIAL TAXES, ERNAKULAM

BY ADV.LIJU V.STEPHEN, SR.GOVERNMENT PLEADER

RESPONDENT(S)/APPELLANT/ ASSESSEE:

SRI.P.G. MAJOJ,
M/S. MOBILE MARKETING, P.G.M. COMPLEX
CHANGANACHERRY, PIN - 686 101.

BY ADV. SRI.MATHEW SEBASTIAN

THIS OTHER TAX REVISION (VAT) HAVING BEEN FINALLY HEARD ON 29-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

OTREV.120/12

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE-A : COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2007-08 UNDER SECTION 25(1) OF KVAT ACT OF COMMERCIAL TAX OFFICER, 1ST CISRCLE, CHANGANACHERRY.

ANNEXURE-B : COPY OF APPELLATE ORDER NO.KVATA 496/2011 DATED 27.07.2011 OF DEPUTY COMMISSIONER (APPEAL), KOTTAYAM.

ANNEXURE-C : COPY OF T.A.ORDER (VAT) NO.1249/2011 DATED 09.07.2012 OF KVATAT, ERNAKULAM.

//TRUE COPY//

PA TO JUDGE.

jg

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

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O.T.Rev.No.120 of 2012

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Dated this the 29th day of January, 2015.

O R D E R

Thottathil B.Radhakrishnan, J.

1. Heard.

2. This revision by the State is against an order of remit made by the Kerala Value Added Tax Appellate Tribunal in an appeal challenging the decision of the first appellate authority in relation to an assessment proceedings under Section 25(1) of the Kerala Value Added Tax Act, 2003, “Act”, for short.

3. The assessee was found to have suppressed a purchase turnover and corresponding sales turnover. That led to penalty proceedings. During the pendency of the penalty proceedings, he filed revised returns. That could not have been entertained at that point of time, in view of the clear wordings of sub-section (9) of Section 22 of the Act. The penalty proceedings, ultimately, culminated in an order of the Tribunal in VAT (TA) No.1179/2011. As per that order dated 09.07.2012, merits of the case were discussed and the penalty order was modified. Thereafter,

appeal relating to the assessment order was taken up and as per a separate order, which is impugned by the State in this revision, the Appellate Tribunal thought it appropriate to give the assessee an opportunity in regard to assessment, and therefore, it was ordered that the assessing authority shall examine afresh whether the assessee had infact accounted the purchase to the tune of ₹54,79,437/-. For that limited purpose, the impugned order of remit to the assessing authority has been made by the Appellate Tribunal. The assessee was directed to produce all records to establish his case. In this view of the matter, we do not see that any question of law has been left undecided or has been erroneously decided by the Tribunal warranting interference in this revision under Section 63 of the Act. This revision, therefore, fails.

In the result, this revision is dismissed.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)

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