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

OT.Rev.No. 74 of 2010 ( )

AGAINST THE ORDER/JUDGMENT IN TAVAT 188/2009 of KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM DATED 12.03.2010

REVISION PETITIONER(S)/RESPONDENT/REVENUE:

STATE OF KERALA,
REPRESENTED BY DEPUTY COMMISSIONER (LAW)
COMMERCIAL TAXES, ERNAKULAM.

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

RESPONDENT(S)/APPELLANT/ASSESSEE:

*1. M/S.ARASAN MATCH INDUSTRIES
THIRUVALLA - 689 101.
(CAUSE TITLE AMENDED)

* M/S.ARASAN MATCH INDUSTRIES,
REPRESENTED BY MR.JAYAKUMAR
P.B. NO.92, JAVALUKADAL STREET
SIVAKASI -620123.

**ADDL.R2 A.M.S.G.JAYAKANNAN,
S/O.A.M.S.GANESAN, 72-JAVULIKKADAI STREET,
SIVAKASI - 626 123.

**ADDL.R3 J.RAJAN, 72 JAVULIKKADAI STREET,
SIVAKASI.

*(THE NAME AND ADDRESS OF THE FIRST RESPONDENT IS AMENDED AS PER ORDER DATED 06/03/2012 IN IA NO.446/2012)

**(ADDITIONAL RESPONDENT NOS.2 & 3 ARE IMPLEADED AS PER ORDER DATED 03.12.2014 IN I.A.NO.2935 OF 2014)

R1-R3 BY ADV. SRI.S.SOMAN

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 20-02-2015, ALONG WITH OTREV.83&84/10, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O.T.REV.74/10

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE-A : COPY OF PENALTY ORDER DATED 26.03.2008.

ANNEXURE-B : COPY OF COMMON ORDER OF THE FIRST APPELLATE AUTHORITY DATED 10.02.2009.

ANNEXURE-C : COPY OF COMMON ORDER OF THE SALES TAX APPELLATE TRIBUNAL DATED 12.03.2010.

ANNEXURE-D : COPY OF SUBMISSION MADE BY THE ASSESSEE BEFORE THE INSPECTING ASSISTANT COMMISSIONER DATED 29.12.2007.

//TRUE COPY//

PA TO JUDGE

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THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

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O.T.Rev.Nos.74, 83 & 84 of 2010,
C.M.Appl.706 of 2010 in O.T.Rev.74 of 2010,
C.M.Appl.734 of 2010 in O.T.Rev.83 of 2010,
and
C.M.Appl.754 of 2010 in O.T.Rev.84 of 2010

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Dated this the 20th day of February, 2015.

O R D E R

Thottathil B.Radhakrishnan, J.

1. We have heard the learned senior government pleader and the learned counsel appearing for the respondent, quite in extenso, on these revisions, which are filed challenging an order of open remit made by the Kerala Value Added Tax Appellate Tribunal, way back on 12.03.2010. Applications seeking condonation of delay stand with affidavits attempting to explain the causes for the delay. The continued pendency of these matters for these five years is attributed to a defect in the cause title, which led to non-service of process on the respondent assessee. Hence, we take a lenient view and condone the delay. The captioned C.M.Applications are allowed.

2. As regards the merits of the revisions; the assessee is a dealer, primarily, in safety matches and allied products. He claimed exemption for his turnover on the premise that the match boxes which he manufactures are handmade and, therefore, exempted in terms of Schedule I of the Act. However, the Department took the view that the transactions effected in Kerala were done by brining in goods from Sivakasi in Tamilnadu, by way of stock transfer or by purchase; and the manufacturing units at that end were not manufacturing handmade products and the match boxes were made mechanically. Penalty proceedings were ultimately interfered with by the Tribunal on the ground that the intelligence officer relied on inspection reports of two minor establishments from which the so-called purchases were made; while the huge assessment of evasion is made on the basis of the materials stated to have been collected in relation to other manufacturers of match boxes in Sivakasi, regarding which details over website were collected. With all these, the Tribunal had only made an open remand, leaving it open for fresh disposal in terms of the

directions given therein which are only intended to ensure that fresh investigation is conducted and the issues are decided on the basis of such investigation report, taking note of the observations made by the Tribunal on the basis of different binding precedents. We see no question of law having been left undecided by the Tribunal. Nor do we see that any question of law has been erroneously decided by it. For these reasons, we do not see any ground to entertain these revisions.

In the result, these revisions are dismissed.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)

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