IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

OT.Rev.No. 14 of 2013

TA(VAT) 429/2010 of KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM
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REVISION PETITIONER(S)/APPELLANT:
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M/S.MATHA WOOD INDUSTRIES,
MULLASSERY P.O., CHAVAKKAD, THRISSUR,
REPRESENTED BY ITS PARTNER T.D. BABU FRANCO.

BY ADV. SRI.P.N.DAMODARAN NAMBOODIRI

RESPONDENT(S)/RESPONDENT:
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STATE OF KERALA, REPRESENTED BY ITS
SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY SR. GOVERNMENT PLEADER SRI. LIJU V. STEPHEN

THIS OTHER TAX REVISION (VAT) HAVING BEEN FINALLY HEARD ON 02-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

OKB

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

O.T.Rev. No.14 of 2013

Dated this the 2nd day of February, 2015

O R D E R

Thottathil B. Radhakrishnan, J.

We have heard the learned counsel for the revision petitioner and the learned Senior Government Pleader.

2. This revision is under Section 63 of the KVAT Act. Under challenge is the decision by which the Tribunal has affirmed the appellate order of the Deputy Commissioner (Appeals) confirming a penalty order by the Intelligence Officer.

3. The petitioner transported imported Pincoda logs from Tamil Nadu to Mullassery in Thrissur. That consignment was intercepted and the Intelligence Officer took the view that the commodity was grossly undervalued. While the learned counsel for the petitioner argues that since entry tax was collected, there was no premise to insist on security and the consequential penalty proceedings, we are of the view that the decision of the Intelligence Officer, insofar as it is on facts, has found its approval at the hands of the Deputy Commissioner (Appeals) and also the

Tribunal. The question, therefore, would be as to whether the Tribunal has left undecided any question of law or has erroneously decided any question of law. The Deputy Commissioner (Appeals) took the view that the value of this particular category of wood would be around Rs.400/- per cft., while the Intelligence Inspector estimated it only at Rs.350/- per cft. We see that the Intelligence Officer concluded the proceedings on the basis of the earlier transit data of similar goods belonging to the same dealer. Under such circumstances, we cannot say that the conclusions arrived at by the authorities below are unavailable on record or palpably perverse warranting interference in revision. We are clear in our mind that any amount paid towards entry tax would be taken care of while concluding the assessment proceedings, which again would not depend entirely on the penalty proceedings. Hence, we see no ground to entertain this revision.

In the result, this revision is dismissed.

Sd/-
THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-
K.HARILAL, JUDGE

okb.