IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

OT.Rev.No. 111 of 2013 ()

AGAINST THE ORDER IN TA (VAT)173/2013 of KERALA VALUE ADDED TAX
ADDL. APPELLATE TRIBUNAL,PALAKKAD DATED 11.4.2013

REVISION PETITIONER(S)/RESPONDENT/REVENUE:

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

BY SR GOVERNMENT PLEADER SRI.LIJU STEPHEN

RESPONDENT(S)/APPELLANT/ASSESSEE:

P.T. ABOOBACKER & CO.,
MATHOTTAM, P.O. ARAKKINAR,
CALICUT 73 028.

R. BY ADV. SRI.VIJAYAN. K.U.

THIS OTHER TAX REVISION (VAT) HAVING BEEN FINALLY HEARD ON 22-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX IN O.T.REV.111/13.

APPELLANT'S EXHIBITS:

ANNEXURE A: TRUE COPY OF THE ASSESSMENT ORDER DATED 9.12.2010 PASSED BY THE COMMERCIAL TAX OFFICER, III CIRCLE, KOZHIKODE.

ANNEXURE B: TRUE COPY OF THE FIRST APPELLATE ORDER DATED 22.2.2012 PASSED BY THE DEPUTY COMMISSIONER (APPEALS) II, COMMERCIAL TAXES, KOZHIKODE.

ANNEXURE C: TRUE COPY OF THE SAID ORDER OF THE TRIBUNAL DATED 11.4.2013 PASSED BY THE TRIBUNAL IN TA (VAT) NO.173/2013.

/TRUE COPY/

PS TO JUDGE

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

O.T.Rev.No.111 of 2013

Dated this the 22nd day of June, 2015

JUDGMENT

Antony Dominic, J.

1. This revision is filed by the Revenue challenging the order passed by the Kerala Value Added Tax Appellate Tribunal, Palakkad in TA(VAT).173/13. The grievance of the Revenue is limited to a direction issued by the Tribunal requiring the Assessing Authority to allow input tax credit in respect of the purchases included in the books of accounts of the assessee but were omitted in the statutory returns that were filed.

2. We heard learned counsel for the Revenue and considered the submissions made.

3. In our view, the issue raised is covered in favour of the Revenue in view of the principles laid down by a Division Bench of this Court in Venus Marketing v. State of Kerala [(2011) 19 KTR 575 (Ker)], where, this Court has held thus:

> "4. . . . . . We are further of the view that benefits like input tax credit should be made available to dealers conforming to statutory provisions in regard to maintenance of accounts, filing of returns and remittance of tax and eligibility for input tax credit is not a matter to be considered when suppression is detected. The department should be slow to grant concessions and benefits like input tax credit for dealers who are involved in tax evasion and benefit should be given strictly in accordance with the provisions of the Act and Rules. . . . . "

4. Admittedly, there is non-compliance of law in the matter of filing the statutory returns. When such non-compliance is found out, the Tribunal could not have directed the Assessing Authority to allow input tax credit in respect of the omitted turn over. We, therefore, set aside the aforesaid direction of the Tribunal.

Revision is allowed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

kkb.