IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

O.T.Rev.No. 141 of 2013

AGAINST THE ORDER/JUDGMENT IN TA 287/2012 of I.T.A.TRIBUNAL,COCHIN BENCH
DATED 20-05-2013

REVISION PETITIONER/REVISION PETITIONER/APPELLANT/REVENUE:

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

BY ADV. GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

RESPONDENT/RESPONDENT/RESPONDENT/ASSESSEE:

M/S. SIGNTECK
PARAMARA ROAD, COCHIN-18

R. BY ADV. SRI.ANIL D. NAIR
R. BY ADV. SRI.R.SREEJITH
R. BY ADV. SMT.SULEKHA BEEVI.C.S
R. BY ADV. SMT.SORIE ATHULYA JOSEPH

THIS OTHER TAX REVISION (VAT) HAVING BEEN FINALLY HEARD ON 11-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O.T.Rev.No. 141 of 2013

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: TRUE COPY OF THE ORDER DATED 22.4.2010 PASSED BY THE INTELLIGENCE OFFICER, SQUAD NO.IV, COMMERCIAL TAXES, MATTANCHERRY AT ALUVA.

ANNEXURE B: TRUE COPY OF THE ORDER DATED 9.11.2011 PASSED BY THE ASSISTANT COMMISSIONER (APPEALS), OFFICE OF THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM.

ANNEXURE C: CERTIFIED COPY OF THE TRIBUNAL ORDER DATED 20.5.2013 PASSED BY THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ERNAKULAM IN TA VAT NO.287/12.

// TRUE COPY //

P.A. TO JUDGE

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

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O.T.Rev.No.141 of 2013

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Dated this the 3rd day of June, 2015

JUDGMENT

Shaji P.Chaly, J.

This revision is preferred by the State against the order of the Kerala Value Added Tax Appellate Tribunal, Ernakulam in T.A.(VAT)No.287/12 dated 20.5.2013, by which order the Tribunal has dismissed the appeal preferred by the State against the order of the First Appellate Authority which allowed the appeal filed by the assessee.

2. Brief facts leading to the case are as follows: The Intelligence Officer, Mattancherry, while conducting vehicle checking on 10.12.2009 found that 15 packets of LED Module Power Supply was transporting to Ernakulam without proper documents as per KVAT Act, 2003. The goods were imported from China by M/S Signteck, the respondent herein through Nedumbassery Airport. The defects noted in the documents on verification are that the TIN of the consignee is not noted anywhere in the accompanying document and the goods were not declared in the concerned Circle Office or any other equivalent authorities required under Section 46(3)(e) of the KVAT Act. The Intelligence Officer thereupon

initiated action under Section 47(2) of the KVAT Act. Notice was given to the dealer demanding security deposit for the release of the goods. The security deposit was furnished and the goods were released. Thereafter penalty proceedings as contemplated under Section 47(6) of the Act was initiated.

3. After evaluating the facts and materials on record, the Intelligence Officer came to the conclusion that there was willful attempt of evasion of tax and in the light of the said findings imposed penalty of Rs.1,77,785/-. Aggrieved by the said order, respondent preferred appeal before the Appellate Authority and the Appellate Authority, after evaluating the facts and circumstances came to the conclusion that there is no attempt to evade tax on the goods transported and set aside the penalty imposed by the Intelligence Officer. Eventhough State has preferred appeal before the Appellate Tribunal, learned Tribunal has concurred with the findings of the first appellate authority and thereupon dismissed the appeal. It is thus aggrieved by the said order passed by the Tribunal, State has come up in Revision before us.

4. Heard the senior Government Pleader and the counsel for the respondent.

5. Having gone through the order passed by the Tribunal and having verified the attendant facts and circumstances recited therein, we are of the considered opinion that the First Appellate Authority as well as the learned Appellate Tribunal has considered the issues raised by the revenue in accordance with law. The Tribunal was also satisfied that there was no attempt to evade tax and therefore the respondent is not liable to be penalised under Section 47(6) of the Act. Therefore, we do not find any illegality or infirmity in the order passed by the Appellate Tribunal, warranting our interference invoking the power conferred on us under Section 63 of the KVAT Act.

Revision fails and it is accordingly dismissed.

ANTONY DOMINIC
JUDGE

SHAJI P. CHALY
JUDGE

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