IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

OP (TAX).No. 11 of 2015 (Q)

AGAINST THE ORDER/JUDGMENT IN TA 71/2011 of AGRL.INCOME TAX ADDL. BENCH, TVM DATED 07-01-2015

PETITIONER:

DHANALEKSHMI TIMBERS REPRESENTED BY MANAGING PARTNER, G.SHENBAGARAMAN, PULIMOOTTIL ROSE BUNGLOW, PUNALUR.

BY ADV. SRI.R.RAJESH(PULLIKADA)

RESPONDENT:
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1. FAST TRACK TEAM, COMMERCIAL TAXES DEPARTMENT, C.T.D. BUILDING, ASRAMAM, KOLLAM - 691 002.

2. KERALA VALUE ADDED TAX / AGRI. INCOME & SALES TAX APPELLATE TRIBUNAL REPRESENTED BY ITS SECRETARY, ADDL. BENCH C.P.G.P LANE, SASTHAMANGALAM THIRUVANANTHAPURAM - 695 007.

3. STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM - 695 001.

BY SENIOR GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

THIS OP TAX HAVING COME UP FOR ADMISSION ON 13-11-2015, ALONG WITH OP(TAXES) NO.12/2015 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (TAX).No. 11 of 2015 (Q)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF ORDER NO.12182761/02-03 DATED 30/01/2010.

EXT.P2: THE TRUE COPY OF T.A.NO.71/2011

EXT.P3: THE TRUE COPY THE COMMON ORDER IN T.A.NO.71/11 & 72/11 DATED 7/01/2015.

EXT.P4: THE TRUE COPY OF MEDICAL CERTIFICATE DATE 16/10/2011.

RESPONDENT(S)' EXHIBITS: NIL

TRUE COPY P.A.TO JUDGE

THOTTATHIL B.RADHAKRISHNAN &
ANU SIVARAMAN, JJ.
= =
O.P (Taxes) Nos.11 & 12 of 2015
= =
Dated this the 13th day of November, 2015

JUDGMENT

Thottathil B.Radhakrishnan, J.

These original petitions are filed challenging a common order by which the Kerala Value Added Tax/Agl. Income Tax & Sales Tax Appellate Tribunal has refused to entertain appeals against the assessment order issued under the Fast Track method. The reason for such refusal is that it is not instituted within the time limit fixed as per Section 17D(5) of the KGST Act and because the dealer had not paid the entire tax amount. It is not in dispute that the entire tax amount was not in dispute. It is also not in dispute that the appeal was not filed in time. Therefore, the impugned order cannot be found fault with. These original petitions are therefore only to be dismissed. We do so, however, preserving the right of the petitioner to move the Tribunal for an opportunity of rehearing, if an appropriate application seeking condonation of delay is filed in accordance with law and if the entire tax amount in dispute is paid with accrued interest for the period during which there is delay in payment in terms of Section 17D (5) of the Act.

sd/-
Thottathil B.Radhakrishnan, Judge

sd/-
Anu Sivaraman, Judge

sj