IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

OTC.No. 3 of 2015

AGAINST THE ORDER IN AITA 4/2012 of S.T.A.TADDL.BENCH, ERNAKULAM DATED 19-02-2015

PETITIONER:

ASPINWALL AND COMPANY LIMITED
(FORMERLY THE PULLANGODE RUBBER
& PRODUCE COMPANY LIMITED),
92/A1-A5, DEVANKULANGARA,
EDAPPALLY,KOCHI-682 024.
REPRESENTED BY ITS CHIEF FINANCIAL OFFICER,
MR.RADHAKRISHNAN T.R.

BY ADVS.SRI.JOSEPH KODIANTHARA (SR.)
SRI.V.ABRAHAM MARKOS
SRI.BINU MATHEW
SRI.TOM THOMAS (KAKKUZHIYIL)
SRI.ABRAHAM JOSEPH MARKOS
SRI.ISAAC THOMAS
SRI.NOBY THOMAS CYRIAC

RESPONDENT:

STATE OF KERALA
REPRESENTED BY THE SECRETARY (TAXES),
TRIVANDRUM - 695 001.

R BY GOVERNMENT PLEADER SRI.LIJU STEPHEN

THIS OTHER TAX CASES HAVING COME UP FOR ADMISSION ON 27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OTC.No. 3 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: TRUE COPY OF ORDER DATED16-11-2006 PASSED BY THIS HON'BLE COURT IN MCA NO.94/2006.

ANNEXURE B: TRUE COPY OF ASSESSMENT ORDER DATED 22-12-2010 FOR ASSESSMENT YEAR 2008-2009.

ANNEXURE C: TRUE COPY OF APPELLATE ORDER DATED 19-1-2012 PASSED BY THE DEPUTY COMMISSIONER (APPEALS), ERNAKULAM IN APPEAL AITA NO.7/2011 FILED BY THE PETITIONER.

ANNEXURE D: CERTIFIED COPY OF IMPUGNED COMMON ORDER DATED 19-2-2015 PASSED BY THE KERALA AGRICULTURAL INCOME TAX AND SALES TAX APPELLATE TRIBUNAL, ERNAKULAM IN AITA NO.4/12.

// TRUE COPY //

P.A. TO JUDGE

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

- -

O.T.C. No.3 of 2015

- -

Dated this the 27th day of July, 2015

JUDGMENT

<u>Antony Dominic, J.</u>

This OTC is filed by the assessee challenging the order passed by the Kerala Agricultural Income Tax and Sales Tax Appellate Tribunal, Ernakulam, in AITA No.4/12. Reading of the order shows that when the appeal was taken up for hearing before the Tribunal, authorized representative of the assessee had submitted that the issues raised were already decided against the assessee by the Tribunal in AITA 1/11 and that therefore they are not pressing the appeals. It is on that basis, without examining the merits of the contentions, the appeal was dismissed. Although it is the case of the counsel that they did not submit that the appeal was not pressed, having regard to what is stated in the order of the Tribunal, we cannot accept the statement. On the other hand, if as stated by the counsel what is recorded by the Tribunal is factually incorrect, it is upto the assessee to get the same corrected by the Tribunal itself. In that view of the matter, we are inclined to entertain this OTC.

OTC is dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

jes