IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

OT.Rev.No. 2 of 2015 ()

TAVAT 138/2013 of KERALA VALUE ADDED TAX ADDITIONAL APPELLATE TRIBUNAL,PALAKKAD

REVISION PETITIONER/APPELLANT/REVENUE:

STATE OF KERALA

GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

RESPONDENT/ASSESSEE:

INDIAN BANK
CIRCLE OFFICE, ERNAKULAM-682011.

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 03-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

OT.Rev.No. 2 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

A : A TRUE COPY OF THE ORDER ISSUED BY THE INTELLIGENCE OFFICER SQUAD NO.1, COMMERCIAL TAX OFFICE, THALASSRY DATED 25.08.2008.

B : A TRUEW COPY OF THE ORDER DATED 1.11.2009 IN Tahsidar(VAT) NO.217/2009

C : A CERTIFIED COPY OF THE ORDER IN TAVAT) NO.138/2013 DATED 21.07.2014.

RESPONDENT'S ANNEXURES : NIL

//TRUE COPY// P.A. TO JUDGE

smv

THOTTATHIL B.RADHAKRISHNAN
&
K. HARILAL, JJ.

OTREV(VAT) No.2 of 2015

Dated this the 3rd day of February, 2015

J U D G M E N T

Thottathil B. Radhakrishnan,J.

1. We have heard the learned Senior Government Pleader quite in extenso.
2. The respondent Indian Bank sold certain hypothecated goods on default. The transaction was held through an agent. The bank in its wisdom imposed a condition that the purchaser will bear the VAT liability. Ultimately, it took the stand that by virtue of that clause, it is not liable to pay the tax component. This led to penalty proceedings. The Tribunal turned down the appeal of the respondent bank and held that it had the liability to pay the tax component and initiation of penalty proceedings cannot be found fault with. This conclusion was arrived at on a critical examination of the entire relevant facts and

factors. Ultimately, the Tribunal was of the view that notwithstanding the fact that the conduct of the bank is in defeasance of law and it is deliberate, those latches of commission will not justify imposition of maximum penalty. In its wisdom, it reduced the penalty to be 1 ½ of the tax assessed as disclosed in the impugned orders. The only interference which was done was only to that extent. For that, the Tribunal has given cogent reasons on the basis of facts particularly in paragraphs 20 and 21 of the impugned orders. We do not see that any question of law has been erroneously decided by the Tribunal or that any question of law which arose on the facts of the case has been left undecided by it. No interference is warranted at the hands of the High Court under the provision of Section 63 of the KVAT Act.

In the result, this revision is dismissed in limine.

Sd/-
THOTTATHIL B.RADHAKRISHNAN, JUDGE

Sd/-
K. HARILAL, JUDGE

//true copy// P.A. to Judge

smv