IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

O.T.Rev.No. 24 of 2015

AGAINST THE ORDER IN T.A.(VAT)1132/2012 of KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM DATED 22-07-2014

REVISION PETITIONERS:

M/S.EMKE TIMBER TRADERS
POTTA, CHALAKKUDY, VIA
THRISSUR DISTRICT, REPRESENTED BY K.M. YOUSEFF, MANAGER

BY ADVS.SRI.HARISANKAR V. MENON
SRI.MAHESH V.MENON

RESPONDENT:

STATE OF KERALA
REPRESENTEDBY ITS SECRETARY, TAXES DEPARTMENT
GOVT.SECRETARIAT, THIRUVANANTHAPURAM 695001

R BY GOVERNMENT PLEADER SRI.LIJU STEPHEN

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 01-06-2015, ALONG WITH O.T.RV. 30/2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE A: COPY OF ORDER ISSUED BY THE COMMERCIAL TAX OFFICER, CHALAKUDY.

ANNEXURE B: COPY OF APPELLATE ORDER ISSUED BY THE ASST. COMMISSIONER (APPEALS), THRISSUR.

ANNEXURE C: COPY OF COMPOUNDING ORDER ISSUED BY THE KERALA INTELLIGENCE OFFICER, SQUAD NO.II, THRISSUR.

ANNEXURE D: COPY OF ORDER ISSUED BY THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ERNAKULAM.

// TRUE COPY //

P.A. TO JUDGE

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

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O.T.Rev.Nos.24 & 30 of 2015

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Dated this the 1st day of June, 2015

JUDGMENT

Antony Dominic, J.

These two revisions are filed against the orders of the Kerala Value Added Tax Appellate Tribunal, Ernakulam in T.A.(VAT)Nos.1132/12 and 1133/12. The appellant is a dealer in timber. Issues pertaining to the assessments for the years 2005-2006 and 2006-2007 which assessments were completed under Section 25A of the KVAT Act. In so far as these appeals are concerned, the issue relates to the addition of purchase suppression unearthed at the time of the inspection and the request of the assessee for exclusion of this addition was rejected concurrently. It is the correctness of this finding which arises for consideration in this revision.

2. Reading of the order shows that the contention of the appellant was that the sales suppression unearthed at the time of inspection was out of the purchase suppression unearthed and that therefore the addition was illegal. However, the impugned orders show that the authorities have held on the basis of the judgment of this Court in ***Velimparambil Hardwares***

Vs. State of Kerala [1994] 92 STC 98 that the burden to establish the said fact is entirely that of the assessee and that there was failure on the part of the assessee on the establishment of the same. The Tribunal also further shows that at the time of hearing of the appeals, Tribunal enquired the counsel for the appellant whether it was possible for them to establish from the seized records that the sales suppression unearthed were from the purchase suppression unearthed from the records. To this also, the answer was in the negative.

3. In such circumstances, we cannot find any fault with the authorities in rejecting the claim of the appellant. We do not find any illegality in the order of the Tribunal.

O.T.Revisions are dismissed.

SD/-
ANTONY DOMINIC
JUDGE

SD/-
SHAJI P. CHALY
JUDGE

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