IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

OT.Rev.No. 39 of 2015

AGAINST THE ORDER IN T.A.(VAT)NO.970/2012 of S.T.A.T.ADDL.BENCH,TVM. DATED 29-10-2014

REVISION PETITIONER:

BETHSAIDA HERMITAGE & TOURISM (P) LTD.
PULINKUDY, MULOOR.P.O., THIRUVANANTHAPURAM
REPRESENTED BY MANAGING DIRECTOR, FEDERICK THOMAS.

BY ADVS.SRI.V.V.GEORGEKUTTY
SRI.AJI V.DEV

RESPONDENT:

STATE OF KERALA
REPRESENTED BY SECRETARY, TAXES DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001.

R BY SR. GOVERNMENT PLEADER SRI.LIJU STEPHEN

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 22-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: TRUE COPY OF THE CERTIFICATE OF REGISTRATION DATED 1.12.2008.

ANNEXURE B: TRUE COPY OF THE REVISED NOTICE ISSUED UNDER SECTION 17 OF THE KTL ACT DATED 14.9.2009 ISSUED BY THE INTELLIGENCE OFFICER (I.B) THIRUVANANTHAPURAM.

ANNEXURE C: COPY OF THE APPLICATION FOR COMPOUNDING THE OFFENCE DATED 30.9.2009.

ANNEXURE D: COPY OF THE PENALTY ORDER DATED 30.10.2010 ISSUED BY THE INTELLIGENCE OFFICER (I.B) TVM.

ANNEXURE E: COPY OF THE JUDGMENT IN KERALA CURRY HOUSE CASE REPORTED IN 36 VST 126.

ANNEXURE F: COPY OF THE APPLICATION FOR COMPOUNDING UNDER SECTION 8(C) FOR 2007-08 SHOWING THE DETAILS OF TAX PAYMENT FILED BY THE PETITIONER.

ANNEXURE G: COPY OF THE APPELLATE ORDER OF THE DEPUTY COMMISSIONER (APPEALS) THIRUVANANTHAPURAM.

ANNEXURE H: COPY OF THE LETTER FROM THE COMMISSIONER IN C1-5461/08 DATED 29.1.2009 SHOWING THE RATE OF TAX OF COOKED FOOD DEALERS FOR PENALTY PURPOSE.

ANNEXURE I: COPY OF THE TRIBUNAL ORDER IN T.A.(VAT)NO.970/2012 DATED 29.10.2014.

// TRUE COPY //

P.A. TO JUDGE

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

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O.T.Rev.No.39of 2015

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Dated this the 22nd day of May, 2015

JUDGMENT

Antony Dominic, J.

In this revision, the petitioner is impugning the order passed by the Tribunal in T.A.(VAT)No.970/2012 where the penalty levied under Section 67 of the Kerala Value Added Tax Act, 2003 was upheld by the Tribunal.

2. Before us the contention raised by counsel for the petitioner was only that the rate of tax applicable was only 0.5% and that the authorities under the Kerala Value Added Tax Act turned down his contention to that effect. This contention is raised relying on the judgment of this Court in ***Sales Tax Officer, Commercial Taxes, 2nd Circle, Kozhikode v. Kerala Curry House (2010) 36 VST, 126.***

3. The petitioner claims that he has opted to pay tax at compounded rates for the year 2007-2008 and that the applicable rate of tax was 0.5%. However, on a reading of the order passed by the Tribunal itself shows that the compounding application submitted pertains to the year 2008-2009 and not to 2007-2008 in

relation to which penalty was levied. If that be so, the very basis of contention raised by the counsel for the petitioner is absolutely erroneous and the judgment relied on also has no relevance.

Resultantly we do not find any substance in the revision. O.T.Revision is dismissed.

Sd/-

ANTONY DOMINIC
JUDGE

Sd/-

SHAJI P. CHALY
JUDGE

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//True Copy//

P.A. to Judge