IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

O.T.Rev.No. 57 of 2015 ()

AGAINST THE ORDER IN T.A.(VAT) NO. 710/2011 of KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM DATED 31-07-2014.

REVISION PETITIONER(S)/APPELLANT/RESPONDENT/REVENUE:

STATE OF KERALA

BY SENIOR GOVERNMENT PLEADER, SRI. LIJU STEPHEN

RESPONDENT(S)/RESPONDENT/APPELLANT/ASSESSEE:

M/S. COTTAGE EXPO CRAFTS,
QUIROS STREET, FORT KOCHI. PIN - 682 001.

R1 BY ADVS. SRI.R.MOHANDAS
SRI.MANOJ KUMAR.M

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 09-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.T.O.

O.T.REVN.NO.57 OF 2015

APPENDIX

REVISION PETITIONER'S ANNEXURES:

ANNEXURE A: A TRUE COPY OF THE ASSESSMENT ORDER DATED 20.01.2010 ISSUED BY THE COMMERCIAL TAX OFFICER, FIRST CIRCLE, MATTANCHERRY.

ANNEXURE B: A TRUE COPY OF THE ORDER DATED 22.02.2011.

ANNEXURE C: A CERTIFIED COPY OF THE ORDER DATED 31.07.2014 IN TA(VAT) NO.710/2011 ON THE FILE OF THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ERNAKULAM.

ANNEXURE C1: A CERTIFIED COPY OF THE ORDER DATED 02.03.2015.

RESPONDENT'S ANNEXURES: NIL

//TRUE COPY//

P.S. TO JUDGE

St/-

ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.

O.T.Rev.No.57 of 2015

Dated this the 9th day of July, 2015

ORDER

Antony Dominic, J.

This revision is filed by the Revenue, challenging the order dated 31.07.2014 of the Kerala Value Added Tax Appellate Tribunal, Ernakulam in T.A.(VAT) No.710/2011.

2. We heard the learned Senior Government Pleader and the learned counsel appearing for the Respondent/assessee.

3. Assessment under Sec.25 was completed against the assessee, for the reason that two O.R. Proceedings were initiated, of which, one was compounded and in the other proceedings penalty was levied. In the appeal filed by the assessee before the First Appellate Authority, the assessment order was set aside for the reason that penalty order passed against the assessee based on the addition on the basis of OR file has already been set aside and the addition based on inspection was confirmed. It is against this order, the Revenue

filed an appeal which came to be dismissed by the impugned order.

4. Reading of the orders passed by the Appellate Authority show that the addition based on the penalty was set aside for the reason that the penalty itself was set aside in an appeal filed by the assessee. That factual position is not disputed. If that be so, the conclusion of the First Appellate Authority and the Tribunal cannot be said to be vitiated for any reason.

The Revision fails, and accordingly it is dismissed.

Sd/-

ANTONY DOMINIC
JUDGE

Sd/-

SHAJI P. CHALY
JUDGE

//true copy//

P.S. to Judge

St/-