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. 68 of 2015

AGAINST THE ORDER IN T.A.VAT 706/2010 of KVAR/AGRL. INCOME TAX & SALES TAX APPELLATE TRIBUNAL, ADDL. BENCH, TVM DATED 28-11-2014

REVISION PETITIONER/APPELLANT:

M/S. BISMI AGENCIES
VELLAYANI JUNCTION
NEMOM, THIRUVANANTHAPURAM

BY ADVS.SRI.ANIL D. NAIR
SMT.C.S.SULEKHA BEEVI
SRI.R.SREEJITH
SMT.ROSY ATHULYA JOSEPH

RESPONDENT:

STATE OF KERALA
REPRESENTATED BY ITS FINANCE SECRETARY
SECRETARIAT, THIRUVANANTHAPURAM 695 001

R BY SR. GOVERNMENT PLEADER SRI.LIJU STEPHEN

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 01-06-2015 ALONG WITH O.T.REV.66/15 & CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: TRUE COPY OF THE PENALTY ORDER NO.OR-20/09 FOR 2009-2010 DATED 8.1.2010.

ANNEXURE B: TRUE COPY OF THE ORDER OF DEPUTY COMMISSIONER (APPEALS) THIRUVANANTHAPURAM DATED 4.8.2010 FOR AY 2009-2010.

ANNEXURE C: TRUE COPY OF THE ORDER DATED 28.11.2014 IN T.A.VAT NO.706/2010 ISSUED BY THE VALUE ADDED TAX, APPELLATE TRIBUNAL, THIRUVANANTHAPURAM.

// TRUE COPY //

P.A. TO JUDGE

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

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O.T.Rev.Nos.64, 65, 66, 68 & 69 of 2015

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Dated this the 1st day of June, 2015

JUDGMENT

Antony Dominic, J.

These revisions are filed against the orders of the Kerala Value Added Tax Appellate Tribunal, Additional Bench, Thiruvananthapuram in T.A.(VAT)Nos.1012/11, 705, 707, 706, 704/10 respectively. The parties, issues and the counsel are common and therefore we heard these revisions together.

2. Facts of the case are that the revision petitioner is a dealer in live chicken. Various consignments were brought from outside the State and the Intelligence Inspector while checking of goods transported found quantity in excess of what declared in the invoice. After furnishing security deposit and advance tax, the goods were released. Finally, notice was issued under Section 47 of the KVAT Act and penalty was levied. This was challenged unsuccessfully before the Appellate Authorities and the Tribunal. It is this proceedings, which are under challenge before us.

3. The contention that the petitioner raised before the lower authorities that he did not have any notice under Section 47(2) of the KVAT Act and that he did not furnish any security deposit or advance tax and

that therefore the proceedings initiated is illegal. This contention was reiterated before us also.

4. Having considered the submissions, we confess our inability to accept this contention. Admittedly, live chicken was brought from outside the State. The consignment was for the petitioner. Ultimately, the entire quantity was sold in the market by the petitioner themselves. In such circumstances, when on detention of each of these consignments, security was furnished and consignment was got released, it can only be either by the petitioner or by somebody on his behalf. We cannot, on the materials available, accept the contentions raised by the petitioner. Such being the case, the authorities have rightly levied the penalty on the petitioner.

We do not find any illegality in the concurrent conclusions of the lower authorities. Revisions fail and are accordingly dismissed.

SD/-
ANTONY DOMINIC
JUDGE

SD/-
SHAJI P. CHALY
JUDGE

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