IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

OT.Rev.No. 74 of 2015 ()

AGAINST ORDER NO.R2-28419/14/CT of COMMR. OF COMMERCIAL TAXES, TRIVANDRUM DATED 6.1.2015

REVISION PETITIONER(S)/REVISION PETITIONER/REVISION PETITIONER/ASSESSEE:

AJITH JOSEPH
THEVARKATTHI, PAZHAVANGADY,
RANNI.

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

RESPONDENT(S)/RESPONDENT/RESPONDENT/REVENUE:

STATE OF KERALA

R BY SR. GOVT PLEADER SRI.LIJU STEPHAN

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 04-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX IN OTRV.74/15

PETITIONER'S EXHIBITS:

ANNEXURE A: TRUE COPY OF THE SHOP INSPECTION REPORT DATED 2.3.2012 OF THE INTELLIGENCE OFFICER, SQUAD 1, PATHANAMTHITTA.

ANNEXURE B: TRUE COPY OF THE PENALTY ORDER FOR 2011-12 DATED 2.11.2012 ISSUED BY THE INTELLIGENCE OFFICER SQUAD -1, PATHANAMTHITTA.

ANNEXURE C: TRUE COPY OF THE REVISION ORDER DATED 25.7.2014 OF THE DEPUTY COMMISSIONER, PATHANAMTHITTA.

ANNEXURE D: TRUE COPY OF THE MEMORANDUM OF REVISION FILED BEFORE THE COMMISSIONER, THIRUVANANTHAPURAM.

ANNEXURE E: TRUE COPY OF REVISION ORDER IN R2-28419/14 CT DATED 6.1.2015 ISSUED BY THE COMMISSIONER, COMMERCIAL TAXES, THIRUVANANTHAPURAM.

/TRUE COPY/

PS TO JUDGE

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

O.T.Rev.No.74 of 2015

Dated this the 4th day of June, 2015

JUDGMENT

Antony Dominic, J.

1. Levy of penalty under section 67 of the Kerala Value Added Tax Act, 2005, upheld by the authorities including the Tribunal concurrently, is under challenge in this revision.

2. We heard learned counsel for the petitioner who contends that since the petitioner is not liable for registration, he cannot be faulted for not maintaining the accounts and that therefore, the estimation done and the penalty levied on the finding that the petitioner did not obtain registration cannot be sustained. We cannot accept this contention. Admittedly, the petitioner did not maintain any accounts. It was in such circumstances that the Intelligence Officer who conducted the inspection had to treat the entire physical stock as excess stock and estimated the value based on full grown weight of different stages of chicks and arrived at a sales turn over. This was the only

possible method which can be adopted by the Intelligence Officer on the given fact situation that there was no books of accounts. In such circumstances, we cannot find fault with the view taken by the statutory authorities.

Revision fails. It is accordingly dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

kkb.