IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

OT.Rev.No. 87 of 2015 ()
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TA 49/2014 OF THE KERALA VALUE ADDED TAX/AGRICULTURAL INCOME TAX & SALES TAX APPELLATE TRIBUNAL, ADDL.BENCH, KOTTAYAM DATED 07-01-2015

REVISION PETITIONER:
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K.P.KABEER
M/S. WAVES DIGITAL VIDEOS & TYRES,
MOOLAMATTOM ROAD
THODUPUZHA-685584.

BY ADV. SRI.MOOSA E.S.

RESPONDENT:
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STATE OF KERALA

SENIOR GOVERNMENT PLEADER SRI.LIJU STEPHEN

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 25-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

OT.Rev.No. 87 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE I : CERTIFIED TRIBUNAL ORDER DATED 07.01.2015.

ANNEXURE II : PHOTOCOPY OF THE DISPUTED INVOICE DATED 23.12.2009.

ANNEXURE III : PHOTOCOPY OF FORM NO.17A NOTICE DATED 24.12.2009.

ANNEXURE IV : PHOTOCOPY OF THE PENALTY PROCEEDINGS DATED 17.05.2010.

ANNEXURE V : PHTOCOPY OF THE ORDER KVATA 3823/2010 DATED 14.09.2011.

ANNEXURE VI : PHOTOCOPY OF GROUNDS OF THE TRIBUNAL APPEAL DATED 10.01.2010.

RESPONDENT'S ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

**ANTONY DOMINIC**
**&**
**SHAJI P. CHALY, JJ.**

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**OTR.(VAT) Rev. Case No.87 of 2015**

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**Dated this the 25th day of June, 2015**

## ORDER

**Antony Dominic,J.**

Penalty levied on the petitioner under Section 47 of the KVAT Act which was confirmed concurrently by the lower appellate authorities, is challenged before us.

2. We heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondent.

3. The petitioner transported goods describing it as scrap tyres from Tirupur to Thodupuzha. The consignment was detained on the basis that the goods transported were used tyres. In the adjudication proceedings though opportunity was offered to the petitioner to adduce evidence to contradict the allegation, that was not availed of. Finally the assessing authority levied penalty on the finding that the goods in question were used tyres. This was confirmed by the first appellate authority and the Tribunal. It is this order which is under challenge before us.

4. Even before us no material whatsoever has been produced ,to upset the finding of fact arrived concurrently by the statutory authorities.

In such circumstances, the finding of fact arrived at by the authorities are absolutely unassailable. We therefore do not find any reason to interfere with the orders passed.

Sd/-

**ANTONY DOMINIC**
**JUDGE**

Sd/-

**SHAJI P. CHALY**
**JUDGE**

smv