IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

OT.Rev.No. 103 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN T.A(VAT) No.116/2012 of KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM DATED 18.9.2014

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

STATE OF KERALA,

BYSMT.SOBHA ANNAMMA EAPEN, GOVERNMENT PLEADER

RESPONDENT(S):

M/S.FAB DYE KEM (P) LTD.
AROR, ALAPPUZHA, PIN-688 534.

R BY ADV. SRI.K.J.VINCENT (MUNDAMVELI)

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 01-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

DG

OT.Rev.No. 103 of 2015 ()

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE A:	COPY OF THE ASSESSMENT ORDER DATED 29.6.2010 ISSUED BY THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE-II, ERNAKULAM.
ANNEXURE B:	COPY OF THE ORDER OF THE FIRST APPELLATE AUTHORITY DATED 29.11.2011 IN KVATA.1079/11.
ANNEXURE C:	CERTIFIED COPY OF THE ORDER DATED 18.9.2014 ON THE FILE OF THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL IN TA (VAT) NO.116/12.

RESPONDENT'S EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

THOTTATHIL B.RADHAKRISHNAN &
ANU SIVARAMAN, JJ.

O.T.Rev.(VAT).No.103 of 2015

Dated this the 1st day of September, 2015

<u>O R D E R</u>

<u>Thottathil B.Radhakrishnan, J</u>.

1. We have heard the learned counsel for the State Revenue and the learned counsel for the respondent at the stage of admission.

2. This O.T. Revision under Section 63 of the Kerala Value Added Tax Act is filed on the fundamental premise that the Tribunal had ordered acceptance of returns and accounts by excluding purchase tax for the input of the manufacturing process of the assessee.

3. The Tribunal in its impugned order states that “chitin” is the product of the manufacturing process of the assessee and it is a non-taxable item. This issue can be easily resolved by making reference to paragraph 8 (1) of the impugned order of the Tribunal, which makes reference to the exemption in the First

Schedule at Serial No.3(5) Item (d). That entry is one which provides exemption for preparations of kind used in animal feeding and the specific sub digital entry deals with prawn, shrimp and poultry feed.

4. Prawn heads are collected from prawn pealing sheds and the manufacturer applies a chemical process by which the prawn heads are converted to chitin, the commercial product which is sold by the manufacturer. Obviously therefore, there is no question of chitin being purchased, making it liable for levy of any purchase tax. What was exigible to any purchase tax levied, if at all, was "prawn heads" which were purchased from the prawn pealing sheds. But, that is the item which stands exempted at Serial No.3(5) Item (d) of the First Schedule of the Act. Hence, the use of the chitin as the commodity which is exempted, in the order of the Tribunal, is a superficial error apparent on the face of the order. It should really be read as "prawn heads or prawn, shrimp and poultry feed".

5. Under the aforesaid factual situation, we are of the view that no question of law arises for decision in this revision and no

question of law has been erroneously decided or has been left undecided by the learned Tribunal. This revision, therefore, fails.

In the result, this revision is dismissed.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(ANU SIVARAMAN, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG