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. 56 of 2014 ()

ORDER IN TA(VAT) 473/2013 of VALUE ADDED TAX ADDITIONAL APPELLATE TRIBUNAL,PALAKKAD DATED 21-11-2013

REVISION PETITIONER/RESPONDENT/REVENUE:

STATE OF KERALA
REPRESENTED BY THE DEPUTY COMMISSIONER (LAW)
COMMERCIAL TAXES
ERNAKULAM.

BY SENIOR GOVERNMENT PLEADER SRI.LIJU STEPHEN

RESPONDENT/APPELLANT/ASSESSEE:

M/S. MURINGAKANDY ENTERPRISES
EAST KALAI, KOZHIKODE-673003.

BY ADV. SRI.T.M.SREEDHARAN (SR.)
BY ADV. SRI.V.P.NARAYANAN
BY ADV. SMT.DIVYA RAVINDRAN

THIS OTHER TAX REVISION (VAT) HAVING BEEN FINALLY HEARD ON 04-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

OT.Rev.No. 56 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: TRUE COPY OF THE PENALTY ORDER DATED 28.04.2008 PASSDED BY THE INTELLIGENCE OFFICER, MOBILE SQUAD NO.II, KOZHIKODE

ANNEXURE B: TRUE COPY OF THE 1ST APPELLATE ORDER DATED 26.08.2010 IS PASSED BY THE ASSISTANT COMMISSIONER (APPEALS), COMMERCIAL TAXES, KOZHIKODE.

ANNEXURE C: CERTIFIED COPY OF THE 2ND APPELLATE ORDER DATED 21.11.2013 PASSED BY THE TRIBUNAL IN T.A.(VAT) NO.473/2013

RESPONDENT'S ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.

O.T.(Rev) No.56 of 2014

Dated this the 4th day of June, 2015

ORDER

Shaji P. Chaly, J.

This revision is preferred against the order of the Additional Appellate Tribunal, Palakkad in TA(VAT) No.473 of 2013 dated 21.11.2013, by which the learned Tribunal has interfered with the order of the assessing authority, which was confirmed by the appellate authority and held that the respondent is not liable to imposition of penalty under Section 47 of the KVAT Act.

2. The brief facts which led to the imposition of penalty are as follows:

3. The assessee, a timber dealer at Kozhikode transported timber valued at Rs.84,000/- on 3.5.2007 unaccompanied by delivery note, despite it being a notified goods as prescribed under the statue. Thereupon the assessing authority after due enquiry imposed penalty of Rs.21,000/-. This was taken in

appeal by the assessee and the appellate authority has confirmed the same. These orders were not set aside by the Tribunal and hence this revision by the Revenue.

4. We have gone through the revision memorandum, order of the Tribunal and the materials on record and found that the learned Tribunal has considered the contentions raised by the rival parties and has arrived at a conclusion that, even though the goods transported were not accompanied by delivery note, the books of accounts and other documents produced by the respondent justified the transportation of goods. Learned tribunal has further found that the assessee is not liable to be penalised as provided under Section 47 of the KVAT Act, for the reason that the Intelligence Officer has failed to establish that there was any attempted evasion of tax by the assessee so as to attract imposition of penalty.

5. Therefore, we are of the considered opinion that the Tribunal has reached such a conclusion, by taking into account the facts, law and circumstances involved in the case. There is no illegality or infirmity in the order warranting any interference

invoking jurisdiction conferred on us under Section 63 of the KVAT Act.

Revision fails and it is accordingly dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

smv

The word 'statue' occurring in paragraph 3 of the final order dated 04.06.2015 in O.T.(Rev) No.56/2014 is corrected and substituted by 'statute' and the word 'not' occurring in the last sentence of the same paragraph is omitted as per order dated 10.07.2015 in I.A. 1657/2015.

Sd/-
Registrar (Judicial)