IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY,THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

OT.Rev.No. 203 of 2014

TA(VAT) 262/2013 of VALUE ADDED TAX APPELLATE TRIBUNAL,ADDL.BENCH, PALAKKAD.
....

REVISION PETITIONER(S)/APPELLANT/ASSESSEE:

DELTA INTERNATIONAL
NEAR GANDHI PARK, CHEROOTY ROAD, KOZHIKODE.

BY ADVS.SRI.P.R.SREEJITH
SRI.M.PROMODH KUMAR

RESPONDENT(S)/RESPONDENT/REVENUE:

STATE OF KERALA
REPRESENTED BY THE DEPUTY COMMISSIONER (LAW)
ERNAKULAM - 682030.

BY SR. GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 14-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O.T.REV.203/14

APPENDIX

REVN. PETITIONER'S ANNEXURES:

A:- **TRUE COPY OF THE ORDER DATED 15.3.2011 OF THE INTELLIGENCE OFFICER, SQUAD NO.II, ERNAKULAM.**

B:- **TRUE COPY OF THE ORDER DATED 28.3.2012 OF THE DY. COMMISSIONER (APPEALS), COMMERCIAL TAXES, KOZHIKODE CONFIRMING ANNEXURE-A ORDER.**

C:- **TRUE COPY OF THE ORDER DATED 19.6.2013 OF THE APPELLATE TRIBUNAL, PALAKKAD IN TA VAT NO.262/13**

RESPONDENT'S ANNEXURES: NIL

OKB

//TRUE COPY//

P.A. TO JUDGE

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

\- -

O.T. Revn. No.203 of 2014
&
C.M. Appln. No.812 of 2014

\- -

Dated this the 14th day of January, 2015

O R D E R

Thottathil B. Radhakrishnan, J.

We have heard the learned counsel for the petitioner quite in extenso, on the merits of the OTR as well, though the revision stands with an application seeking condonation of delay of 354 days.

2. The revision petitioner attributes the delay to his non availability in India, he having been away in Abudhabi in connection with his business activities and that his local office failed to have the revision filed in time. On the totality of the facts insofar as it relates to the application seeking condonation of delay, we are inclined to take a lenient view and condone the delay.

3. Be that as it may, on an examination of the grounds on which the revision is filed, vis-a-vis, the order of the Appellate Tribunal under the KVAT Act and the order of the Deputy

Commissioner (Appeals), as also, the penalty order by the Intelligence Officer, we see that there is no reason whatsoever to entertain the revision. The only issue was as to the amount of penalty imposed. We say this because, suppression of the turnover was clearly found on the basis of the materials, and the Sales Register and bills examined by the Intelligence Officer clearly showed that while the value as per the bills accounted on the Sales Register was Rs.11,66,650/-, the total turnover as per Sales Register was Rs.22,87,700/-. Thus, it was found that there was suppression of sales turnover of Rs.11,21,050/-. The materials on record clearly show that there was no other inference possible; but to hold that there was wilful suppression. The Appellate Tribunal, however, held that the gravity of defects detected did not warrant imposition of maximum penalty and reduced the penalty imposed to be 1½ times of the tax sought to be evaded. That assessment has also been done by the Tribunal stating that such quantum of penalty will meet the ends of justice in the case in hand. We see that the Tribunal has not failed to decide any question of law or has erroneously decided any question of law, on the basis of the facts of the case. Under such circumstances, we do not see any ground to entertain this revision under Section 63 of the Kerala Value Added Tax Act, 2003.

In the result,

(1) C.M. Application is allowed, and

(2) Revision is dismissed in limine.

Sd/-
THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-
K.HARILAL, JUDGE

okb.