IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

OT.Rev.No. 211 of 2014 ()

TA(VAT) 587/2011 of KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ERNAKULAM
.....

REVISION PETITIONER/APPELLANT/REVENUE:

STATE OF KERALA

BY SENIOR GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

RESPONDENT(S)/RESPONDENT/ASSESSEE:
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SRI.C.S.MOIDEEN KUNJU
(PROP)SUMAIYYA TIMBER INDUSTRIES, ALLAPRA P. O.
PIN-683553.

R1 BY ADV. SRI.K.N.SREEKUMARAN
R1 BY ADV. SRI.P.D.UNNIKKANNAN NAIR

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 12-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

OT.Rev.No. 211 of 2014

APPENDIX

REVN. PETITIONER'S ANNEXURES:

A- TRUE COPY OF THE ORDER DTD.9.4.2010 ISSUED BY THE COMMERCIAL TAX OFFICER, 2ND CIRCLE, PERUMBAVOOR.

B- TRUE COPY OF THE ORDER DTD.8.10.2010 IN KVAT NO.2320/10 OF THE DY.COMMSSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM.

C- CERTIFIED COPY OF THE ORDER DTD.11.4.2014 IN T.A.(VAT) NO.587/11 OF THE KERALA VALUE ADDED TAX APPELLATE TRUBUNAL, ERNAKULAM.

RESPONDENT'S ANNEXURES: NIL

OKB

//TRUE COPY//

P.A. TO JUDGE

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

O.T. Revn. (VAT) No.211 of 2014

Dated this the 12th day of January, 2015

O R D E R

Thottathil B. Radhakrishnan, J.

In this revision filed by the Revenue, invoking Section 63 of the Kerala Value Added Tax Act, 2003, the issue raised is as to whether the Appellate Tribunal was justified in dismissing the Revenue's appeal against an order of the Deputy Commissioner (Appeals).

2. We have heard the learned Senior Government Pleader for the Department of Revenue. We have perused the order of the Tribunal. It cannot be said that the Tribunal has failed to decide any question of law or has erroneously decided any question of law. We say so because, as rightly pointed out by the Tribunal, the questions raised were entirely on pure facts and evidence. The Tribunal held that there was absolutely no material to substantiate that the dealer had obtained ostensible consideration over and above what was conceded in the return and accounts. The first Appellate Authority having accepted the undervaluation detected in a consignment, appreciated the estimation of turnover on the basis of suppression of the turnover detected by the Intelligence Officer by limiting the

addition of turnover at 10% of the sales conceded by the appellant. The Tribunal was, therefore, justified in taking the view that it finds no merit to destabilise the findings of the first Appellate Authority. We do not see any ground to interfere with that decision of the Appellate Tribunal in this statutory revision under Section 63 of the KVAT Act.

In the result, this revision is dismissed in limine.

Sd/-
THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-
K.HARILAL, JUDGE

okb.