IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

OT.Rev.No. 216 of 2014

TA(VAT) 1259/2011 of KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM
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REVISION PETITIONER(S)/RESPONDENT/REVENUE:
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STATE OF KERALA

BY SR.GOVERNMENT PLEADER SRI. LIJU V.STEPHEN

RESPONDENT(S)/APPELLANT/ASSESSEE:

M/S.AL - AMEEN WOOD INDUSTRIES
POOMALA, ASAMANNOOR- 683 549.

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 30-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

OKB

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

O.T.R.(Vat) No.216 of 2014
and
C.M. Appl. No.866 of 2014

Dated this the 30th day of January, 2015

O R D E R

Thottathil B. Radhakrishnan, J.

This revision against the decision of the Appellate Tribunal stands with an application seeking condonation of delay of 56 days. We have looked into the merits of the State's contention in the revision impeaching the Tribunal's order. We have heard the learned Senior Government Pleader in that regard.

2. The respondent is a manufacturer of plywood, core veneer and black board. A penalty order was imposed under Section 67(1)(a) and (d) of KVAT Act alleging that the dealer omitted to include one interstate purchase of “face veneer” in the monthly return and the value of that is Rs.4,70,800/-. Stated to be taking a lenient view, penalty equivalent to the probable tax evasion was imposed. We may note that immediately on receipt of notice of proposal to impose penalty, the dealer filed objections and also rectified his books of account and pleaded that the managing partner of the dealer had lost his mother-in-law and he had also to go to Dubai during which period there was some mixing up of making

appropriate entries and that rectification of account has been made. This plea of the dealer found favour with the Tribunal, which held resultantly that what had happened is only a technical matter and the default has been rectified and the situation does not call for imposition of any penalty since it cannot be treated as a wilful exercise by the dealer in having not included the interstate purchase in the books of account at the appropriate time.

3. We have gone through the penalty order imposed by the Intelligence Officer and the decision of the first Appellate Authority. We are of the view that the Tribunal has taken a wholesome view of the matter and has decided the matter on the very peculiar facts of the case. This revision does not involve any question of law, which has been left undecided by the Tribunal or, which has been erroneously decided by the Tribunal. No interference in this revision under Section 63 of the Act is called for.

For the reasons aforesaid, this revision and the application seeking condonation of delay are dismissed in limine.

Sd/-
THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-
K.HARILAL, JUDGE

okb.