IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

ST.Rev.No. 388 of 2008 ( )

AGAINST THE ORDER/JUDGMENT IN TA 180/2004 of SALES TAX APPELLATE TRIBUNAL ADDL.BENCH, ERNAKULAM DATED 18-02-2008

PETITIONER(S)RESPONDENT/REVENUE:

STATE OF KERALA,
REP. BY ASSISTANT COMMISSIONER, COMMERCIAL TAXES, ERNAKULAM.

BY SRI.LIJU V.STEPHEN, GOVERNMENT PLEADER

RESPONDENT(S)/APPELLANT/ASSESSEE:

M/S IVRCL INFRASTRUCTURES AND PROJECT LTD.,
H. NO. 160 A, VKV LANE,
CHEMBUMUKKU, KAKKANAD, KOCHI -30.

R BY ADVS. SRI.V.P.SUKUMAR
SRI.A.KUMAR

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 13-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

DG

ST.Rev..No. 388 of 2008

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE A:	COPY OF THE ORDER OF ASSESSING AUTHORITY DATED 30.08.2003.
ANNEXURE B:	COPY OF THE ORDER OF THE FIRST APPELLATE AUTHORITY DATED 29.12.2003.
ANNEXURE C:	COPY OF THE ORDER OF THE TRIBUNAL DATED 31.08.2005.
ANNEXURE D:	COPY OF THE COMMON ORDER IN THE REVIEW APPLICATION DATED.

RESPONDENT'S EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

S.T.Rev.No.388 of 2008

Dated this the 13th day of January, 2015

ORDER

Thottathil B.Radhakrishnan, J.

1. The Revenue has filed this revision, challenging the decision of the Kerala Sales Tax Appellate Tribunal granting an application for review under Section 39(7) of the Kerala General Sales Tax Act, 1963.

2. We have heard the learned Senior Government Pleader and the learned counsel for the respondent/assessee.

3. As is discernible from paragraph 4 of the impugned order, the Tribunal while rendering its decision on the appeal initially, did not consider the plea of the assessee that the transfer of steel pipes were effected without any processing or manufacture and, therefore, totally exempted from tax. Noticing that, the Tribunal entertained the review, since it had failed to decide one among the five grounds raised in the appeal. Taking note of the ratio of the decision in **Sivanandan**

<u>and others v. State of Kerala</u> [(1994) 2 KTR 256] and **<u>Symon and others v. State of Kerala and another</u> [(1995) 97 STC 283]**, the Tribunal held that steel pipes continue to be steel pipes despite the inlining process or concreting process subsequently effected. Therefore, the Tribunal concluded that though the assessee is not entitled to the plea that the transfer of steel pipes were totally exempted from tax, its plea in the review application that the tax was leviable only at the rate of 4%, going by Entry 2(ii) of the Schedule II of the KGST Act, stands. In this view of the matter, we find no ground to hold that the Tribunal acted contrary to law or had erroneously decided any question of law in entertaining and allowing the review application to that extent. This revision, therefore, fails.

In the result, this revision is dismissed.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(K.HARILAL, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG