IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

WA.No. 360 of 2013 IN WP(C).14537/2011

AGAINST THE JUDGMENT IN WP(C) 14537/2011 of HIGH COURT OF KERALA DATED 05-12-2012
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APPELLANTS/RESPONDENTS IN THE W.P.:-:
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1. THE COMMERCIAL TAX OFFICER,
   WADAKKANCHERY, TRICHUR DISTRICT.

2. THE COMMERCIAL TAX OFFICER,
   TRICHUR.

3. THE COMMERCIAL TAX OFFICER,
   WALAYAR, PALAKKAD DISTRICT.

4. THE COMMISSIONER,
   COMMERCIAL TAXES, THIRUVANANTHAPURAM.

5. STATE OF KERALA,
   REPRESENTED BY SECRETARY TO GOVERNMENT
   TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

BY SR. GOVERNMENT PLEADER SRI. LIJU V.STEPHEN

RESPONDENT(S)/PETITIONERS IN THE W.P.:-:
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1. SHABEER ENTERPRISES,
   KUMARANELLUR, WADAKKANCHERY,
   THRICHUR DISTRICT - 680 590, KERALA,
   REPRESENTED BY THE PROPRIETOR A.H.MOHAMMED.

2. FIRDOUSE INTERNATIONAL TRADING COMPANY,
   KUMARANELLUR P.O., WADAKKANCHERRY, TRICHUR - 680 590,
   REPRESENTED BY PROPRIETOR.

BY ADV. SRI.GEORGE POONTHOTTAM

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

Writ Appeal No.360 of 2013

Dated this the 3rd day of February, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

This appeal by the State pithily stands impeaching the findings of the learned single Judge as are contained in paragraph 9 of the impugned judgment. The point is as to whether a dealer could be compelled to include the floor rate fixed by the Commissioner in the delivery notes and, on failure, could such assignments be detained at the check post on the ground that there is no due declaration of the value based on circulars issued.

2. Heard the learned Senior Government Pleader and the learned counsel for the respondents.

3. This appeal arises from W.P.(C) No.14537 of 2011, which was decided along with W.P.(C) No.9439 of 2011 and connections. That common judgment, in so far as connected cases are concerned, was subject of Writ Appeal No.1257 of 2013 and connections decided by the Division Bench as per judgment dated 9/1/2014. The aforenoted specific issue was pointedly dilated

upon by the Division Bench in Writ Appeal No.1257 of 2013 and connections, wherein it has been clearly held, making reference to the relevant rules, that the rules only insist that the delivery notes should reflect the value of the goods. That is the prescription in the statutory form. There is nothing in the rule or in the form that compels the endorsement of the floor rate fixed by the Commissioner. In spite of submissions of the learned Senior Government Pleader to the contrary, we are not persuaded to take a different view in the matter. The Bench had decided the case with reference to the contents of the prescribed statutory forms. We endorse that view and follow it. Hence, we do not find any reason to upset the decision of the learned single Judge. This writ appeal, therefore, fails.

In the result, this writ appeal is dismissed.

THOTTATHIL B. RADHAKRISHNAN, JUDGE

K.HARILAL, JUDGE

okb.