

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

ST.Rev..No. 17 of 2015 ()

AGAINST THE ORDER IN TA 485/2009 of K.A.I.T & S.T.A.T.ADDL.BENCH, ERNAKULAM
DATED 17-12-2014

PETITIONER(S)/RESPONDENT/APPELLANT/ASSESSEE:

C.NAJEEB,
M/S.NAJEEB ASSOCIATES, CHITOOR ROAD, ERNAKULAM.

BY ADV. DR.K.P.PRADEEP

RESPONDENT(S)/APPELLANT/RESPONDENT/STATE:

STATE OF KERALA,
REP. BY ITS PRINCIPAL SECRETARY TO TAXES DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

R BY SR GOVERNMENT PLEADER SRI.LIJU STEPHAN

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON
12-08-2015, ALONG WITH STRV. 18/2015, AND CONNECTED CASES, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:

APPENDIX IN STRV.17/15

APPELLANT'S EXHIBITS:

ANNEXURE A: TRUE COPY OF THE ORDER NO.IEC VIII/47/07-08 (94-95) DATED 23.10.2008 ISSUED BY THE INTELLIGENCE OFFICER, SQUAD NO VIII, ERNAKULAM.

ANNEXURE B: TRUE COPY OF THE COMMON ORDER DATED 7.4.2009 IN STRP 1, 2, 3, 4 & 5/2009 ISSUED BY THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM.

ANNEXURE C: TRUE COPY OF THE ORDER NO.IEC VIII/47/07-08 (94-95) DATED 19.5.2009 ISSUED BY THE INTELLIGENCE OFFICER, SQUAD NO VIII, ERNAKULAM.

ANNEXURE D: TRUE COPY OF THE CIRCULAR NO.13/2008 DATED 23.3.2008 ISSUED BY THE COMMISSIONER OF COMMERCIAL TAXES, THIRUVANANTHAPURAM.

ANNEXURE E: TRUE COPY OF THE ORDER NO.NC CR 92-93 TO 2001-02 AC (WC) EKM DATED 30.12.2011 ISSUED BY THE ASSISTANT COMMISSIONER (WC<), COMMERCIAL TAXES, ERNAKULAM.

ANNEXURE F: TRUE COPY OF THE CERTIFICATE NO.NC CR 92-93 TO 1988-89 AC (WC) EKM DATED 30.1.2015 ISSUED BY THE ASSISTANT COMMISSIONER (WC<), COMMERCIAL TAXES, ERNAKULAM.

ANNEXURE G: CERTIFIED COPY OF THE COMMON ORDER IN APPEALS TA NOS.485, 486, 487, 488 & 489/2009 DATED 17.12.2014 OF THE SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH AT ERNAKULAM.

/TRUE COPY/

PS TO JUDGE

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

S.T.Rev.Nos.17, 18, 19, 20 & 21 of 2015

Dated this the 12th day of August, 2015

O R D E R

Antony Dominic, J.

- 1.The captioned revisions are filed by the assessee calling in question the orders of the Kerala Agricultural Income Tax and Sales Tax Appellate Tribunal in TA.Nos.485/09, 487/09, 486/09, 489/09& 488/09 respectively, whereby, the penalty levied on the assessee by the Intelligence Officer, for the assessment years 1994-95 to 1988-99, by orders dated 23.10.2008, 24.10.2008, 25.10.2008, 28.10.2008 and 29.10.2008 respectively, which were set aside by the first appellate authority, are restored.
- 2.Today when the matter was taken up, referring to Annexures E and F produced in all these revision petitions, the counsel for the assessee submitted that the tax liability pertaining to these orders have already been settled availing of the benefit of the Amnesty scheme declared by circular No.13/08 under section 23 B of the KGST Act, 1963.

3. On instructions, the correctness of the aforesaid submission has been confirmed by the learned Government Pleader also.

4. Since the tax liability has already been settled under the amnesty scheme, the tenability of the penalty order is a matter which requires to be assessed by the Intelligence Officer himself. In that view of the matter, we remit the matter to the Intelligence Officer, Squad No.VIII, Commercial Taxes, Ernakulam to re-consider the matter with notice to the assessee and to pass orders in accordance with law.

Revisions are disposed of accordingly.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

k kb.