IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WA.No. 1547 of 2015 () IN WP(C).21357/2015

AGAINST THE JUDGMENT IN WP(C) 21357/2015 of HIGH COURT OF KERALA DATED 15-07-2015

APPELLANT/PETITIONER:

JOS ELECTRICAL TRADING COMPANY
CHITTOOR ROAD, OPPOSITE YMCA, ERNAKULAM
COCHIN 35
(REPRESENTED BY MANAGING PARTNER MJ GEORGE)

BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKKANNAN NAIR
SMT.V.P.SEENA DEVI

RESPONDENTS/RESPONDENTS:
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1. COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECK POST, WALAYAR, PALAKKAD 676001

2. INTELLIGENCE INSPECTOR
SQUAD NO.VII, COMMERCIAL TAXES, THEVARA
ERNAKULAM 682015

R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI.LIJU STEPHEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WA.No. 1547 of 2015

APPENDIX

APPELLANT'S ANNEXURES:

ANNEXURE A : CERTIFIED COPY OF THE JUDGMENT 15.7.2015 IN W.P.(C) NO.21357/2015 OF THIS HONOURABLE COURT.

RESPONDENTS' ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.

W.A. No.1547 of 2015

Dated this the 20th day of July, 2015

JUDGMENT

Shaji P. Chaly, J.

This appeal is filed against the judgment of the learned Single Judge in W.P.(C) No.21357 of 2015 dated 15.7.2015 by which, the learned Single Judge has directed to release the goods retained by the VAT Authorities under Ext.P5 penalty order.

2. Brief facts are thus;

3. Appellant is a dealer in electrical goods. A consignment of the appellant was intercepted at the Walayar Check Post and having found that there is misclassification of goods, Ext.P5 notice was issued directing it to to show cause why the goods and vehicles shall not be detained or to remit an amount of Rs.1,20,000/-. It is thus aggrieved by Ext.P5, appellant has preferred the writ petition.

4. The learned Single Judge without deliberating much on facts has ordered to release the goods to the appellant on the

appellant remitting an amount of Rs.30,000/- and executing a simple bond without sureties for the remaining amount.

5. We have gone through the judgment of the learned Single Judge, perused the documents and pleadings and heard arguments of the learned counsel for the appellant and the learned Government Pleader.

6. Ext.P5 impugned order shows that the goods under transport are high tension and low tension electrical items exegible to VAT at the rate of 14.5%. However, the goods were declared as electrical items coming under the IIIrd schedule of the Act taxable at 5%. Therefore, the apprehension expressed by the statutory authority cannot be found fault with and we see no reason to interfere with Ext.P5 notice issued by the first respondent. Of course, against Ext.P5, assessee preferred Ext.P6 objection and the same is under consideration before the first respondent. In that view of the matter, we are not at all impressed by the arguments of the learned counsel that, appellant is liable to pay tax at 5% only and therefore not inclined to interfere with Ext.P5 order .

In that view of the matter, we are of the considered opinion that there is no illegality or infirmity in the judgment of the learned Single Judge warranting interference in this appeal.

Appeal fails and accordingly it is dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

smv