IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WA.No. 1733 of 2014 () IN WP(C).6386/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 6386/2014 of HIGH COURT OF KERALA DATED 20-08-2014

APPELLANT(S)/RESPONDENTS IN WPC:
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1. COMMISSIONER OF COMMERCIAL TAXES
PUBLIC OFFICE BUILDING, VIKAS BHAVAN
THIRUVANANTHAPURAM-695 001.

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

3. COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHEKPOST,
KUNHIPALLY P O, CHOMBALA
KOZHIKODE DIST., PIN-673 006.

4. THE INTELLIGENCE INSPECTOR
MOBILE SQUAB NO.II, MAHE
OFFICE OF THE DEPUTY COMMISSIONER
(INTELLIGENCE)
DEPARTMENT OF COMMERCIAL TAXES
PALAKKAD-678 001.

BY ADV.SOBHA ANNAMMA EAPEN, SR.GOVERNMENT PLEADER

RESPONDENT(S)/PETITIONER IN WPC:

M/S.VENKITESHWARA HATCHERIES PVT.LTD
DOOR NO. 1/26, KALLEKULANGARA P.O., DHONI ROAD
PALAKKAD, PIN - 678 009, REP BY ITS GENERAL MANAGER
MURTUZA ALI ISMAIL MAGDUM.

R BY SRI.N.MURALEEDHARAN NAIR
R BY SRI.V.K.SHAMUSUDHEEN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jg-9/10

THOTTATHIL B.RADHAKRISHNAN &
ANU SIVARAMAN, JJ.

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W.A.No.1733 of 2014

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Dated this the 28th day of September, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

We have heard the learned senior Government Pleader and the learned counsel for the respondent.

In our view, the learned single Judge was fully justified in applying the ratio of the decision in U.K.Monu Timbers v. State of Kerala [2012(3) KHC 111], particularly when the matter related to detention of goods as per notices by demanding security deposit based on circular prescribing the floor-rate. We, having gone through the judgment rendered in the light of the various decisions, do not find any ground to interfere with the same. The learned senior Government Pleader pointed out that the impugned judgment contains a declaration that goods cannot be detained only on the question of under valuation. That is not correct. We say so because all that the learned single Judge has stated is that day old chicks cannot be detained only on the question of under valuation, with reference to the floor-rate fixed by the Commissioner. The direction was that even if there is detention for other defaults, no security deposit can be demanded on the basis of such floor-rate fixed by the Commissioner, since doing so would amount to the detaining officer arrogating the powers of the assessing officer. Subject to what is stated above, this writ appeal is dismissed.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(ANU SIVARAMAN, JUDGE)

jg-28/9