IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

&

THE HONOURABLE MR. JUSTICE T.R.RAVI

THURSDAY, THE 03RD DAY OF DECEMBER 2020 / 12TH AGRAHAYANA, 1942

OT.Rev.No.170 OF 2020

AGAINST THE ORDER IN TA(VAT) NO.1028/2018 DATED 25-05-2020 OF THE AGRICULTURAL INCOME TAX AND SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOZHIKODE

REVISION PETITIONER/RESPONDENT/RESPONDENT/REVENUE:

STATE OF KERALA
REP.BY THE JOINT COMMISSIONER (LAW),
KERALA GST DEPARTMENT, ERNAKULAM.

BY GOVERNMENT PLEADER

RESPONDENT/APPELLANT/APPELLANT/ASSESSEE:

M/S.VALLUVANAD HOSPITAL COMPLEX LIMITED
KANIAMPURAM, OTTAPPALAM - 679 101.

BY SENIOR GOVERNMENT PLEADER SRI.V.K.SHAMSUDHEEN

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 03.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

K.Vinod Chandran, J

The above revision raises the very same issue of exigiblity to tax of the purchase and sale of Oxygen, surgical goods, lab chemicals, X-ray films etc. by the assessee, a hospital. Admittedly the purchase was for the purpose of medical emergencies and the sale was also on prescription of the medical practitioner to the patients for therapeutic purposes. The issue stands covered by a judgment of the Full Bench of this Court reported in *Sanjose Parish Hospital (M/s.) and Others* v. *Commercial Tax Officer and Others* [*2019 (1) KHC 377 (FB)*].

2. The contention of the learned Senior Government Pleader is that there is a Special Leave Petition filed before the Hon'ble Supreme Court in which, however, no stay has been granted admittedly. In the above circumstances, we do not think that the revision need be kept pending and we follow the decision of the Full Bench setting

aside the order passed by the Tribunal and answering the questions in favour of the assessee and against the revenue.

3. In the subject assessment year, O.T.Rev.No.168/2020, from T.A.(VAT) No.1028/2018 of the Appellate Tribunal Additional Bench Kozhikode; is rejected with the reservation that if the Hon'ble Supreme Court reverses the aforesaid Full Bench judgment, then necessarily the assessee would also be subject to that and the State would be entitled to make demand on the basis of the assessment orders now set aside as modified by the first appellate authority, if there is any such modification made.

Ordered accordingly. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN, Judge.

Sd/-

T.R RAVI, Judge.

sp/03/12/2020

//True Copy// P.A. To Judge

APPENDIX

PETITIONER'S/S EXHIBITS:

ANNEXURE A	**A TRUE COPY OF ASSESSMENT ORDER UNDER SECTION 25 (1) OF KVAT ACT DATED 22.4.2017 BEARING NO.32091024464/2014-15 PASSED BY THE COMMERCIAL TAX OFFICER -I, OTTAPPALAM**
ANNEXURE B	**A TRUE COPY OF THE ORDER DATED 17.4.2018 IN KVATA NO.476 A OF 2017**
ANNEXURE C	**CERTIFIED COPY OF THE COMMON ORDER OF THE TRIBUNAL IN T.A.(VAT) NO.1028 OF 2018 DATED 25.5.2020**