

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 16TH DAY OF AUGUST 2017/25TH SRAVANA, 1939

RP.No. 1156 of 2015
IN ITA.195/2014

AGAINST THE JUDGMENT IN ITA 195/2014 of HIGH COURT OF KERALA
DATED 19-08-2015

REVIEW PETITIONER/RESPONDENT:

M/S.KERALA SPONGE IRON LTD
XV/D NO.810, MANTHURUTHY, KANJIKODE WEST P.O., PALAKKAD,
KERALA-678623 REPRESENTED BY ITS MANAGING DIRECTOR SHRI.VIVEK
AGARWAL.

BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN

RESPONDENT/APPELLANT:

THE COMMISSIONER OF INCOME TAX
AAYAKAR BHAVAN, SAKTHAN THAMPURAN NAGAR,
THRISSUR-680001.

BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX
SRI.P.K.R. MENON (SR.)

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
16-08-2017, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

R. P. No.1156 of 2015 in
I.T.A. No.195 of 2014

Dated this the 16th day of August, 2017

ORDER

Antony Dominic, J.

Heard the learned Senior Counsel for the petitioner and the learned Standing Counsel for the Revenue.

2. By this application, the respondent in I.T.A. No.195 of 2014 is seeking review of the judgment dated 19.08.2015 whereby the questions of law framed for consideration of this Court was answered in favour of the Revenue and the order of the Tribunal was set aside.

3. The contention now raised by the learned Senior Counsel to impugn the judgment of this Court as erroneous, is that from Ext.R1 series of documents now produced, it is obvious that the receipts by the assessee from M/s Vatika

Merchants Private Limited were through banking channels and therefore, could not have been treated as unexplained cash credit under Section 68 of the Income Tax Act.

4. However, having considered the contention raised, we are unable to accept the same. It is obvious from the judgment under review that before the Assessing Officer itself, M/s Vatika Merchants Private Limited had confirmed the transactions between the assessee and M/s Vatika. This was considered by the Assessing Officer and the Assessing Officer treated the receipts as unexplained cash credit for the reason that M/s National Multi Commodity Exchange of India had confirmed that M/s Vatika Merchants (supra) was expelled from the exchange long prior to the transactions in question. Further, it was also confirmed that the assessee is a non-existent client under any member of the exchange.

5. Taking into account, these facts and the fact that the assessee had not produced any material to contradict the statement of the exchange, the Assessing Officer held

the claim of generation of commodity trading profit of ₹5,13,55,093/- as a sham and a bogus one. Therefore, Annexure-R series of documents now relied on would not improve the case of the assessee in any manner.

6. In any event, the judgment contains the reasons for the conclusions of this Court and if the assessee is aggrieved by those conclusions, the remedy of the assessee is to challenge the judgment before the appellate forum.

Review, therefore, is not maintainable and is accordingly dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**SHAJI P. CHALY
JUDGE**

kns/-

//TRUE COPY//

P.S. TO JUDGE

