

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

MONDAY, THE 31ST JULY 2006 / 9TH SRAVANA 1928

TRC.No. 253 of 2001

TA.493/1991 of S.T.A.T.ADDL.BENCH,ERNAKULAM

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REVISION PETITIONER/APPELLANT:

M/S. LARSON & TOUBRO LTD., RAVIPURAM, COCHIN - 16.

**BY ADV. SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN**

RESPONDENT/RESPONDENT:

STATE OF KERALA.

BY GOVERNMENT PLEADER

**THIS TAX REVISION CASE HAVING BEEN FINALLY HEARD
ON 31/07/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

**C. N. RAMACHANDRAN NAIR &
K. M. JOSEPH, JJ.**

T.R.C. NO.253 OF 2001

Dated this the 31st day of July, 2006

JUDGMENT

C. N. Ramachandran Nair, J.

The question raised is whether the tribunal is justified in confirming disallowance of subsequent inter-state sales claimed under Section 6(2) of the CST Act. On going through the tribunal's order, we find that the petitioner could not establish in-transit sales with evidence, such as, date of arrival of goods, date of delivery by carrier, and copy of L.R. endorsing in favour of the customer. Moreover, it is strange that the petitioner which has major operations in Bombay has chosen to make subsequent inter-state sales to a local party from Kerala instead of making such sales from the Bombay office to the Kerala buyer. Further, we find from the tribunal's order that petitioner accounted very same transactions as local sales and later filed a revised return for the assessment year 1981-82 and claimed the same transactions as subsequent inter-state sales, that too

without evidence to establish it. Even though learned counsel pointed out a decision of this Court in Good Will Paper Mart v. Sales Tax Officer ((1998) 6 KTR 243) and contended that mere production of E1 Form and C Form are sufficient to establish claim for exemption, we are unable to accept this contention, in view of the findings of the tribunal as recorded above which, even give rise to a doubt to the bonafides of the claim. In such circumstances, we find no ground to interfere with the tribunal's order. The TRC is accordingly dismissed.

C. N. RAMACHANDRAN NAIR, JUDGE

K. M. JOSEPH, JUDGE

kbk.

**C. N. RAMACHANDRAN NAIR &
K. M. JOSEPH, JJ.**

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JUDGMENT

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