

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 84 OF 2018

AGAINST THE ORDER IN C.O.No.5 OF 2016 IN IN TA(VAT) 569/2014
OF KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM

REVISION PETITIONER: APPELLANT/RESPONDENT/REVENUE:

STATE OF KERALA
REPRESENTED BY DEPUTY COMMISSIONER OF SALES TAX(LAW)
, STATE GOODS AND SERVICE TAX DEPARTMENT, ERNAKULAM
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

RAPHEL T.JOSEPH
M/S RENIL AUTO GARAGE ,KECHERY,THRISSUR PIN 680501

BY ADVS.
K.P.ABDUL AZEES
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.75/2018, 78/2018
AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 75 OF 2018

AGAINST THE ORDER OF TAVAT 564/2014 OF KERALA VAT APPELLATE
TRIBUNAL, ERNAKULAM DATED 5.3.2018

REVISION PETITIONER/ (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA
REP. BY DEPUTY COMMISSIONER OF STATE TAX (LAW),
STATE GOODS AND SERVICE TAX DEPARTMENT, ERNAKULAM.
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

RAPHEL T JOSEPH
M/S. RENIL AUTO GARAGE, KECHERY, THRISSUR - 680 501.

BY ADVS.
SRI.K.P.ABDUL AZEES
SRI.K.G.SOMANATH
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 78 OF 2018

AGAINST THE ORDER IN TAVAT 567/2014 OF KERALA VAT APPELLATE
TRIBUNAL, ERNAKULAM DATED 5.3.2018

REVISION PETITIONER: (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA
REP. BY DEPUTY COMMISSIONER OF STATE TAX (LAW),
STATE GOODS AND SERVICE TAX DEPARTMENT, ERNAKULAM.
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT (RESPONDENT/APPELLANT/ASSESSEE) :

SRI RAPHAEL.T.JOSEPH,M/S.RENIL AUTO GARAGE, KECHERY,
THRISSUR, PIN 680501.

BY ADVS.
SRI.K.P.ABDUL AZEES
SRI.K.G.SOMANATH
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 77 OF 2018

AGAINST THE ORDER IN TAVAT 565/2014 OF KERALA VAT APPELLATE
TRIBUNAL, ERNAKULAM DATED 5.3.2018

REVISION PETITIONER/ (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA
REP. BY DEPUTY COMMISSIONER OF STATE TAX(LAW), STATE
GOODS AND SERVICE TAX DEPARTMENT, ERNAKULAM
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

SRI RAPHEL.T.JOSEPH
M/S RENIL AUTO GARAGE, KECHERY, THRISSUR PIN 680 501

BY ADVS.
SRI.K.P.ABDUL AZEES
SRI.K.G.SOMANATH
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 79 OF 2018

AGAINST THE ORDER DATED 5.3.2018 IN TAVAT 568/2014 OF KERALA
VAT APPELLATE TRIBUNAL, ERNAKULAM

REVISION PETITIONER/ (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA
REP. BY DEPUTY COMMISSIONER OF STATE TAX(LAW), STATE
GOODS AND SERVICE TAX DEPARTMENT, ERNAKULAM

BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

RAPHEL T. JOSEPH
M/S RENIL AUTO GARAGE, KECHERY, THRISSUR, PIN-
680501.
BY ADVS.
SRI.K.P.ABDUL AZEES
SRI.K.G.SOMANATH
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 80 OF 2018

AGAINST THE ORDER DATED 5.3.2018 IN C.O.No.5 of 2016 IN TAVAT
567/2014 OF KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM

REVISION PETITIONER/ (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA
REPRESENTED BY THE DEPUTY COMMISSIONER OF STATE
TAX (LAW), STATE GOODS AND SERVICE TAX DEPARTMENT,
ERNAKULAM.
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

RAPHEL T. JOSEPH
M/S RENIL AUTO GARAGE, KECHERY, THRISSUR, PIN -680
501
BY ADVS.
SRI.K.P.ABDUL AZEES
SRI.K.G.SOMANATH
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 82 OF 2018

AGAINST THE ORDER DATED 5.3.2018 IN C.O.No.6 of 2016 IN TAVAT
568/2014 OF KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM

REVISION PETITIONER/ (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA,
REPRESENTED BY DEPUTY COMMISSIONER OF STATE TAX
(LAW), STATE GOODS AND SERVICE TAX DEPARTMENT,
ERNAKULAM.
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

RAPHEL T. JOSEPH,
M/S.RENIL AUTO GARAGE, KECHERY, THRISSUR, PIN - 680
501.
BY ADVS.
SRI.K.P.ABDUL AZEES
SRI.K.G.SOMANATH
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 81 OF 2018

AGAINST THE ORDER DATED 5.3.2018 IN TAVAT 566/2014 OF KERALA
VAT APPELLATE TRIBUNAL, ERNAKULAM

REVISION PETITIONER/ (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA,
REPRESENTED BY DEPUTY COMMISSIONER OF STATE TAX
(LAW), STATE GOODS AND SERVICE TAX DEPARTMENT,
ERNAKULAM.
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

RAPHEL.T.JOSEPH,
M/S.RENIL AUTO GARAGE, KECHERY, THRISSUR, PIN - 680
501.
BY ADVS.
SRI.K.P.ABDUL AZEES
SRI.K.G.SOMANATH
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 86 OF 2018

AGAINST THE ORDER DATED 5.3.2018 IN TAVAT 569/2014 OF KERALA
VAT APPELLATE TRIBUNAL, ERNAKULAM

REVISION PETITIONER/ (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA
REPRESENTED BY DEPUTY COMMISSIONER OF SATE TAX (LAW) ,
STATE GOODS AND SERVICE TAX DEPARTMENT,
ERNAKULAM
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

RAPHEL T. JOSEPH
M/S RENIL AUTO GARAGE,
KECHERY ,
THRISSUR
PIN - 680501.
BY ADVS.
SRI.K.P.ABDUL AZEES
SRI.K.G.SOMANATH
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 91 OF 2018

AGAINST THE ORDER DATED 5.3.2018 IN CROSS OBJECTION No.2 OF
2016 IN TAVAT 564/2014 OF KERALA VAT APPELLATE TRIBUNAL,
ERNAKULAM

REVISION PETITIONER/ (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA
REP. BY DEPUTY COMMISSIONER OF STATE TAX (LAW),
STATE GOODS AND SERVICE TAX DEPARTMENT, ERNAKULAM.
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

SRI. RAPHEL T. JOSEPH
M/S.RENIL AUTO GARAGE, KECHERY, THRISSUR, PIN
680501.
BY ADVS.
SRI.K.P.ABDUL AZEES
SRI.K.G.SOMANATH
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 92 OF 2018

AGAINST THE ORDER DATED 5.3.2018 IN C.O.No.4 OF 2016 IN TAVAT
566/2014 OF KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM

REVISION PETITIONER/ (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA,
REPRESENTED BY DEPUTY COMMISSIONER OF STATE TAX
(LAW), STATE GOODS AND SERVICE TAX DEPARTMENT,
ERNAKULAM.
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

RAPHEL T. JOSEPH,
M/S.RENIL AUTO GARAGE, KECHERY, THRISSUR.
BY ADVS.
SRI.K.P.ABDUL AZEES
SRI.K.G.SOMANATH
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SHRI.AKHIL SURESH
SMT.T.ARCHANA

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OT.REV NO. 94 OF 2018

AGAINST THE ORDER DATED 5.3.2018 IN C.O.No.3 OF 2016 IN TAVAT
565/2014 OF KERALA VAT APPELLATE TRIBUNAL, ERNAKULAM

REVISION PETITIONER/ (APPELLANT/RESPONDENT/REVENUE) :

STATE OF KERALA,
REP. BY DEPUTY COMMISSIONER OF STATE TAX (LAW),
STATE GOODS AND SERVICE TAX DEPARTMENT, ERNAKULAM.
BY SPECIAL GOVERNMENT PLEADER SRI MOHAMMED RAFIQ

RESPONDENT/ (RESPONDENT/APPELLANT/ASSESSEE) :

RAPHEL T. JOSEPH,
M/S. RENIL AUTO GARAGE, KECHERY,
RESPONDENT/ RESPONDENT/
THRISSUR. PIN - 680 501.
BY ADVS.
K.P.ABDUL AZEES
SRI.G.HARIKUMAR (GOPINATHAN NAIR)
SMT.T.ARCHANA
SHRI.AKHIL SURESH

THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR
ADMISSION ON 29.07.2022, ALONG WITH OT.Rev.84/2018 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER

[OT.Rev Nos.84/2018, 75/2018, 78/2018, 77/2018, 79/2018, 80/2018, 82/2018, 81/2018, 86/2018, 91/2018, 92/2018, 94/2018]

S.V.Bhatti, J.

We have heard Mr.Mohammed Rafiq, the learned Special Government Pleader for petitioner and Mr.K.P.Abdul Azeez, learned counsel for respondents.

2. The O.T.Revisions are directed against the common order dated 5.3.2018 in T.A.(VAT) No.564 of 2014 and Cross Objection Nos.2 of 2016 and batch of the Kerala Value Added Tax Appellate Tribunal, Ernakulam. The issue arises under Section 25 of Kerala Value Added Tax Act, 2003. The Tribunal through the impugned common order followed the view taken by a Division Bench in ***Cholayil Pvt. Ltd. v Assistant Commissioner (Assessment), Special Circle, Commercial Taxes, Thrissur***¹. Considering the

¹ (2016) 92 VST 308

grounds of challenge raised by the petitioner, a Division Bench of this Court referred the matter to a Full Bench after noticing difference of opinion in ***C.C.Sebastian v State of Kerala***² & ***State of Kerala v Muhammed Ali A.M.*** (2017) 25 KTR 73)³.

3. The Full Bench by order dated 31.03.2022 has held as follows:

“10. The line of decisions relied by the Revenue supports the arguments now canvassed. Reassessment is taken care of by Section 25. The answer to the question for consideration, in our view, to a great extent, depends on the true interpretation of Section 25 of the KVAT Act: turnover, escaped assessment to tax; the turnover has been under-assessed; the turnover has been assessed at a rate lower than the rate at which it is assessable; that deduction has been wrongly made from the turnover; input tax or special rebate credit has been wrongly availed. In the above circumstances, the assessing authority may, at any time within five years from the last date of the year to which the return relates: (a) proceeds to determine what is known as best judgment, turnover which has escaped assessment to tax; (b) which is under-

² (2008) 16 KTR 117

³ (2017) 25 KTR 73

assessed; (c) or assessed at a rate lower than the rate at which it is assessable; (d) impermissible deductions have been made; and (e) assess the tax payable. The text of Section 25 and applying the golden rule of interpretation would result in reassessment power in the cases of escaped assessment, under-assessed, assessed at a rate lower than applicable rate etc.

10.1 What begs the question is: *Whether reassessment is covered by any one or the other situations contemplated by Section 25 or not?* Section 25, as already noted, deals with all the probable and possible eventualities in alleged tax evasion. Therefore, the Legislature, in its wisdom, has provided for several independent contingencies. The acceptance of an offer under Section 8 of the KVAT Act cannot be assumed or appreciated, as anything different from the returns filed by a dealer registered under Section 6 of the KVAT Act. Rules 11 and 12 provide for filing the returns by a dealer. Section 21 provides for deemed self-assessment, including the returns filed by a dealer registered under Section 8 of the KVAT Act. The deemed assessment is available subject to and/or as long as no further action is initiated under Sections 22, 24 and 25 of the KVAT Act. The moment reassessment steps are initiated by the primary authority, from the scheme of KVAT Act and by respectfully following the view expressed by this Court in *Joy Alukkas Traders (I) Pvt. Ltd* case, we hold that the earlier steps under Section 8 cannot be understood or interpreted

as completely debarring the assessing authority from reassessing the return filed on misrepresentation or erroneous fact. As already noted, the compounded rate of tax is an alternate mode of payment of tax. To reach the same objective is to pay and collect tax on the sale or purchase of goods. Section 21, in terms or by any stretch of interpretation, distinguishes between the returns filed under Section 6 of the KVAT Act on the one hand and the return filed under Section 8 of the KVAT Act on the other hand. Acceptance of compounded rate of tax proposal does not elevate the return filed under Section 8 to give immunity of reassessment under Section 25 of KVAT Act till the order under Section 8 is cancelled or revoked. In a given case, stated illustratively, where compounding rate of tax is accepted to a situation or category on the details provided by the dealer to which none of the categories would apply, then it is a case of acceptance of a proposal on misrepresented facts or inapplicable circumstances.

10.2 The corollary of accepting a compounding rate of tax to a dealer allows a concessional/compounded rate of tax instead of what is payable by the dealer. Then, it is a case of both turnovers escaping assessment or assessing at a lower rate of tax. The deemed assessment comes into play only when the returns conform to the mandate of charging sections and are compliant in form and content, not when assessed at a lower rate than what is applicable under Section 6. Each one of the situations covered by Section 25 for reassessment can be stated. The

decisions relied on do not lay down that the compounding scheme does not debar examination of every detail which constituted a statutory contract between the dealer and the Revenue. The examination is warranted when vitiated by standard exceptions available for enforcement of a contract.

10.3 The next contention is that Section 8(f)(iv) which reads as follows:

“(iv) The assessing authority, for valid and sufficient reasons, such as shifting of place of business, furnishing of false information, suppression of relevant information, failure to furnish such information demanded, may refuse permission to pay tax under this section and cancel the permission, if any, granted:”

contemplates cancellation of the order granting compounded rate of tax and the same requirement is to be applied in respect of other categories of cases covered by Section 8. We are afraid such interpretation of a substantive provision in Section 25 is impermissible. The absence of such a requirement in Section 8(a) to (d) does not mean, the inherent power in Section 25 is available only upon cancellation of permission granted under Section 8 regarding all categories of compounded tax rate payable under the Section. The issue in law, for our examination, is the power of Revenue to initiate reassessment enquiry without recalling the arrangement accepted under Section 8. Section 25 is comprehensive, and the textual interpretation confers power to Revenue

to initiate reassessment inquiry in cases attracting misrepresentation, fraud, etc. and complete the assessment as per law.

11. For the above reasons and discussion, we are of the view that the principle laid down in *A M Muhammed Ali* case is not correct and in line with the textual interpretation and scheme of incidence and levy of tax, an alternate mode of tax through compounded rate, deemed assessment, and power of reassessment. Therefore, we hold that the principle laid down in *A M Muhammed Ali* case does not represent the correct proposition of law. The powers under Sections 25, 56, and 66 are separate and independently conferred on different authorities to prevent loss of revenue.

11.1 Accordingly, we hold that the Assessing Officer has power and jurisdiction to initiate reassessment in cases under Section 25, where compounding rate is accepted on erroneous details, misrepresentation, fraud, inapplicable situations, and it is immaterial whether the initial order suffers from the vice of being *non-est* or not. The power to initiate reassessment or reopening of assessment is from the Revenue perspective. Upon setting in motion, the reopening or reassessment under Section 25, the dealer is neither denied nor deprived of the original reasons which constituted for opting for the compounded rate of tax for reiteration and request for withdrawing reassessment as unavailable to the Revenue. In cases where the dealer insists on continuing

the assessment under Section 8 of the KVAT Act the Assessing Officer, like in any other disputed question of fact that may arise in an enquiry under Section 25, is obliged by law to enquire into the very basis of granting compounded rate, afford an opportunity, and while making the final reassessment order, decides the basic issues on hand.”

4. The learned counsel appearing for the parties submit that in view of the ratio laid down by the Full Bench, the common order of the Tribunal impugned needs to be set aside and the matters remitted to Tribunal for consideration and disposal afresh on the other issues on merits. In other words, the main ground on which the Tribunal dismissed the appeals filed by the State is set aside, the matter re-examined by the Tribunal. By holding the above view, we set aside the common order dated 5.3.2018 in T.A.(VAT) No.564 of 2014 and Cross Objection Nos.2 of 2016. We allow the O.T. revisions and remit the matter to the Tribunal for consideration and disposal afresh in accordance with law. The Tribunal endeavours to dispose of the revisions on

merits as expeditiously as possible preferably within four months from the date of receipt of a copy of this order.

Sd/- S.V.BHATTI, JUDGE

Sd/- BASANT BALAJI, JUDGE

CSS/

APPENDIX OF OT.REV 75/2018

PETITIONER ANNEXURES

ANNEXURE A	A TRUE COPY OF THE ORDER NO. 32081665342/2006-07 DATED 29.08.2013 UNDER KVAT ACT FOR THE ASSESSMENT YEAR-2006-07
ANNEXURE B	A TRUE COPY OF THE COMMON ORDER DATED 19.05.2014 IN KVATA NO. 458 OF 2013
ANNEXURE C	CERTIFIED COPY OF THE COMMON ORDER OF THE TRIBUNAL IN T.A. (VAT) NO. 564 OF 2014 DATED 05.03.2018.

APPENDIX OF OT.REV 78/2018

PETITIONER ANNEXURES

- ANNEXURE A A TRUE COPY OF THE ORDER
NO.32081665342/2011-12 DATED 23.09.2013
UNDER KVAT ACT FOR THE ASSESSMENT YEAR
2011-2012
- ANNEXURE B A TRUE COPY OF THE COMMON ORDER DATED
19.05.2014 IN KVATA NO. 461 OF 2013
- ANNEXURE C PHOTOCOPY OF THE COMMON ORDER OF THE
TRIBUNAL IN T.A. (VAT) NO. 567 OF 2014
DATED 05.03.2018.

APPENDIX OF OT.REV 77/2018

PETITIONER ANNEXURES

ANNEXURE A	A TRUE COPY OF THE ORDER NO. 32081665342/ 2009-10 DATED 29-08-2013 UNDER KVAT ACT FOR THE ASSESSMENT YEAR 23009-10
ANNEXURE B	A TRUE COPY OF THE COMMON ORDER DATED 19- 05-2014 IN KVATA NO. 459 OF 2013.
ANNEXURE C	PHOTO COPY OF THE COMMON ORDER OF THE TRIBUNAL IN T.LA (VAT) NO. 565 OF 2014 DATED 05-03-2018

APPENDIX OF OT.REV 79/2018

PETITIONER ANNEXURES

- ANNEXURE P1 A TRUE COPY OF THE ORDER
NO.32081665342/2007-08 DATED 29/08/2013
UNDER KVAT ACT FOR THE ASSESSMENT YEAR
2007-08.
- ANNEXURE P2 A TRUE COPY OF THE COMMON ORDER DATED
19/05/2014 IN KVATA.NO.459/2013.
- ANNEXURE P3 PHOTOCOPY OF THE COMMON ORDER OF THE
TRIBUNAL IN T.A.(VAT)NO.568 OF 2014 DATED
05/03/2018.

APPENDIX OF OT.REV 82/2018

PETITIONER ANNEXURES

ANNEXURE A	A TRUE COPY OF THE ORDER NO. 32081665342/2007-08 DATED 29.08.2013 UNDER KVAT ACT FOR THE ASSESSMENT YEAR 2007-08
ANNEXURE B	A TRUE COPY OF THE COMMON ORDER DATED 19.05.2014 IN KVATA NO. 459 OF 2013
ANNEXURE C	PHOTOCOPY OF THE COMMON ORDER OF THE TRIBUNAL IN CROSS OBJECTION NO. 6 OF 2016 IN T.A. VAT NO. 568 OF 2014 DATED 05.03.2018

APPENDIX OF OT.REV 81/2018

PETITIONER ANNEXURES

- ANNEXURE P1 A TRUE COPY OF THE ORDER
NO.32081665342/2010-11 DATED 29.08.2013
UNDER KVAT ACT FOR THE ASSESSMENT YEAR
2010-11.
- ANNEXURE P2 A TRUE COPY OF THE COMMON ORDER DATED
19.05.2014 IN KVATA NO.462 OF 2013.
- ANNEXURE P3 PHOTOCOPY OF THE COMMON ORDER OF THE
TRIBUNAL IN T.A.(VAT)NOI.566 OF 2014 DATED
05.03.2018.

APPENDIX OF OT.REV 86/2018

PETITIONER ANNEXURES

ANNEXURE A	A TRUE COPY OF THE ORDER NO. 32081665342/2008-09 DATED 29-08-2013 UNDER KVAT ACT FOR THE ASSESSMENT YEAR 2008-09
ANNEXURE B	A TRUE COPY OF THE COMMON ORDER DATED 19- 05-2014 IN KVATA NO. 460 OF 2013
ANNEXURE C	PHOTO COPY OF THE COMMON ORDER OF THE TRIBUNAL IN T.A (VAT) NO. 569 OF 2014 DATED 05-03-2018

APPENDIX OF OT.REV 91/2018

PETITIONER ANNEXURES

- ANNEXURE A A TRUE COPY OF THE ORDER
NO.32081665342/2006-07 DATED 29/08/2013
UNDER KVAT ACT FOR THE ASSESSMENT YEAR
2006-07.
- ANNEXURE B A TRUE COPY OF THE COMMON ORDER DATED
19/05/2014 IN KVATA NO.458 OF 2013.
- ANNEXURE C PHOTO COPY OF THE COMMON ORDER OF THE
TRIBUNAL IN C.O.NO.2 OF 2016 IN T.A. (VAT)
NO.564 OF 2014 DATED 05/03/2018.

APPENDIX OF OT.REV 92/2018

PETITIONER ANNEXURES

- ANNEXURE A:- A TRUE COPY OF THE ORDER
NO.32081665342/2010-11 DATED 29/08/2013
UNDER KVAT ACT FOR THE ASSESSMENT YEAR
2010-11.
- ANNEXURE B:- A TRUE COPY OF THE COMMON ORDER DATED
19/05/2014 IN KVATA NO.462 OF 2013.
- ANNEXURE C:- PHOTO COPY OF THE COMMON ORDER OF THE
TRIBUNAL IN CROSS OBJECTION NO.4 OF 2016
IN T.A(VAT) NO.566 OF 2014 DATED
05/03/2018.

APPENDIX OF OT.REV 94/2018

PETITIONER ANNEXURES

ANNEXURE A	A TRUE COPY OF THE ORDER NO.32081665342/2009-10 DATED 29.8.2013 UNDER KVAT ACT FOR THE ASSESSNET YEAR 2009-10
ANNEXURE B	A TRUE COPY OF THE COMMON ORDER DATED 19.5.2014 IN KVATA NO.461/2013
ANNEXURE C	PHOTOCOPY OF THE COMMON ORDER OF THE TRIBUNAL IN CROSS OBJECTION NO.3 OF 2016 IN T.A. (VAT) NO.565/2014 DATED 5.3.2018

APPENDIX OF OT.REV 84/2018

PETITIONER ANNEXURES

ANNEXURE A A TRUE COPY OF THE ORDER NO.
32081665342/2008-09 DATED 29.08.2013 UNDER
KVAT ACT FOR THE ASSESSMENT YEAR 2008-09

ANNEXURE B A TRUE COPY OF THE COMMON ORDER DATED
19.5.2014 IN KVATA NO. 460 OF 2013

ANNEXURE C PHOTOCOPY OF THE COMMON ORDER OF THE
TRIBUNAL IN CROSS OBJECTION NO. 7 OF 2016
IN T.A. (VAT) NO. 569 OF 2014 DATED
05.03.2018

O.T.Rev.No.80/2018

APPENDIX

PETITIONER'S EXHIBITS:

ANN.A : A TRUE COPY OF THE ORDER NO.32081665342/2011-12 DATED 23.09.2013
UNDER KVAT ACT FOR THE ASSESSMENT YEAR 2011-12.

ANN.B : A TRUE COPY OF THE COMMON ORDER DATED 19.05.2014 IN KVATA
NO.463 OF 2013.

ANN.C : PHOTOCOPY OF THE COMMON ORDER OF THE TRIBUNAL IN CROSS
OBJECTION NO.5 OF 2016 IN T.A.(VAT) NO.567 OF 2014 DATED 5.3.2018.