courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 03/09/2026

(2009) 02 KL CK 0041

In the High Court Of Kerala

Case No : S.T. Rev. No. 160 of 2008

State of Kerala APPELLANT

Vs

Radheshyam Khandenwall RESPONDENT

Date of Decision : 17-02-2009

Acts Referred:

Kerala General Sales Tax Act, 1963 — Section 7(7)

Citation : (2009) 1 KLJ 765 : (2010) 28 VST 349

Hon'ble Judges : K. Surendra Mohan, J;C.N. Ramachandran Nair, J

Bench : Division Bench

Advocate : V.K. Shamsudeen, for the Appellant; T.M. Sreedharan and V.P. Narayanan, for the Respondent

Final Decision : Dismissed

Judgement

C.N. Ramachandran Nair, J.—The issue raised in the revision petition filed by the State is whether the respondent assessee is entitled to payment of tax at compounded rate u/s 7(7) of the KGST Act. The case of the Department is that the construction involved is a boat jetty which does not answer the type of civil work covered by Section 7(7) of the KGST Act, According to the Government Pleader, specific items of work only are covered by the Section, until the later amendment and therefore prior to amendment all works of civil nature are not covered by the Section. The items of work covered u/s 7(7) at the relevant time are construction of buildings, bridges, roads, railway tracks, walls including sea walls, dams and canals including any repair or maintenance of such civil work, The above provision is expanded later to cover every civil work. However, the question to be considered is whether the construction of a boat jetty will answer any of the items of the work referred above to entitle the respondent/contractor to opt for payment of tax at the compounded rate of 2%. The Tribunal has considered in detail the nature of work and found that the constructions carried out answers the description of building and based on this finding, they uphold respondent''s entitlement for payment of tax at compounded rate u/s 7(7) of the

Act. We are in agreement with the finding of the Tribunal because, the Tribunal noticed that the work awarded involved erection of concrete pillars to support the platform and protective construction of the building with stones are also provided. A boat jetty is essentially a platform where from passengers board the boats and where they alight from the boats. It is essentially a concrete structure with or without roof supported by concrete pillars. Though not in common parlance, we feel technically a Boat jetty also can be regarded as a building. We are of the view that construction of boat jetty and its maintenance qualify for payment of tax at compounded rate u/s 7(7) because the legislature did not intend any restricted meaning for the term ''building'' used in the Section. Moreover, the intention is made clear by later amendment covering all type of civil construction works and maintenance work within the ambit of Section 7(7) permitting payment of tax at compounded rate. Therefore, we uphold the order of the Tribunal and dismiss the revision filed by the State. However, we make it clear that in all work contract assessments, it is the duty of the assessing officer to verify the collection of tax from the awarders and to ensure that excess tax, if any collected over the assessed tax, is forfeited which is not seen done in any of the orders reaching before this Court.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/state-of-kerala-appellant-hash-...