(1984) 08 KAR CK 0037

In the Karnataka High Court

Case No : Sales Tax Revision Petition No. 60 of 1980

1dada Haji Ibrahim Halari — APPELLANT

Vs

State of Karnataka — RESPONDENT

Date of Decision : 07-08-1984

Acts Referred:

Central Sales Tax (Registration and Turnover) Rules, 1957 — Rule 12(1)
Central Sales Tax Act, 1956 — Section 8(4)

Citation : (2004) 56 KarLJ 462

Hon'ble Judges : S. A. Hakeem, J;K. Jagannatha Shetty, J

Judgement

K. Jagannatha Shetty, J.-This petition under Section 23(1) of the Karnataka Sales Tax Act, 1957 (shortly ''the State Act''), is directed against the order of the Tribunal dated May 30, 1979, made in S.T.A. No. 86 of 1974.

2. The petitioner-Dada Haji Ibrahim Halari is a dealer in supari, soap nuts, etc. His turnover on inter-State sales for the assessment year 1957-58 was originally exempted from payment of tax in view of the decision of the Supreme Court in State of Mysore v Yaddalam Lakshminarasimhiah Setty and Sons, AIR 1965 SC 1510. After the necessary amendment to the Central Sales Tax Act, 1956 (shortly ''the Central Act''), the Assessing Authority issued a notice under Section 25-A of the State Act read with Section 9 of the Central Act proposing to bring to tax the said exempted turnover and also proposing to tax at 2% on the turnover not covered by ''C'' Forms. The petitioner produced some ''C'' Forms and in respect of the rest of the turnover, he produced statements of inter-State sales furnishing Bill numbers, sale amounts, ''C'' Form numbers and so on with a contention, that the original ''C'' Forms must have been already produced in the original assessment proceedings.

The Assessing Authority, however, brought to tax the turnover to the extent to which it was not covered by ''C'' Forms. He could not find those ''C'' Forms said to have been produced in the original assessment proceedings. The appeals preferred against the said order were dismissed both by the Deputy

Commissioner and also by the Tribunal. The Tribunal, after proper scrutiny of the file, came to the conclusion that the assessee did not produce all the ''C'' Forms.

3. The question now to be considered is whether the assessee should be given an opportunity to produce ''C'' Forms in respect of which he has furnished particulars before the Assessing Authority.

One cannot definitely say at this stage, whether the assessee did produce ''C'' Forms at the first instrance. The fact remains that he did produce particulars of such ''C'' Forms in the rectification proceedings. The assessee has also the right to produce ''C'' Forms in the rectification proceedings. In fairness, therefore, he ought to have been give an opportunity to produce ''C'' Forms or in the absence of which its duplicate or photostat copies. Such an opportunity cannot be denied merely on the ground that the ''C'' Forms said to have been produced are not in the records.

4. In the result, this petition is allowed, the orders under revision are set aside and the matter is remitted to the Assessing Authority, to dispose of the matter in the light of the observations made above. The assessee is at liberty to produce duplicate or photostat copies of the relevant ''C'' Forms, within four months from today.

The parties shall appear before the Assessing Authority on October 1, 1984, to receive further notice.

