(2000) 11 AP CK 0016

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 94 of 1992

3-Star Electronics APPELLANT

Vs

State of Andhra Pradesh RESPONDENT

Date of Decision : 28-11-2000

Acts Referred:

Andhra Pradesh General Sales Tax Act, 1957 — Section 19

Citation : (2001) 123 STC 47

Hon'ble Judges : S.R. Nayak, J;Ananda Reddy, J

Bench : Division Bench

Advocate : S. Ravi, for the Appellant; The Special Government Pleader for Taxes, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—In this T.R.C. the following questions are said to arise for decision :

1. Whether, on the facts and in the circumstances of the case, the order of the Tribunal was legal, just and proper ?

2. Whether, on the facts and in the circumstances of the case, the honourable Sales Tax Appellate Tribunal was right in holding that there are no valid reasons for condonation of delay in filing of first appeal ?

3. Whether, on the facts and in the circumstances of the case, the Sales Tax Appellate Tribunal was correct in law in rejecting the contention of the petitioner that the judgment of the Karnataka High Court in Builders Association of India Vs. State of Karnataka and others, could not have been the basis for the belated appeal, in view of the exposition of law by the Karnataka High Court ?

2. The first appeal itself was presented before the first appellate authority, Appellate Deputy Commissioner (CT), Secunderabad, with a delay of one year five months and eighteen days. The reasons that was placed before the first

appellate authority for condonation of the above delay by the petitioner was that it was under the bona fide impression at the time when the assessment orders were passed that the assessment officer had rightly subjected the turnover relating to the receipts on video shooting coverage and servicing amounting to Rs. 8,10,967 to tax in view of the provisions of the 46th amendment to the Constitution and the law then prevailing relating to works contract, subsequently, his advocate informed that such turnover relating to the receipts on video shooting coverage and servicing could not be subjected to tax and the turnover relating to the value of the goods, which were video cassettes only could be subjected to tax and under those circumstances he chose to file the appeal. That explanation offered by the petitioner-appellant was rejected by the first appellate authority on the ground that there was no change of law subsequent to the assessment order. The first appellate authority has given detailed reasons in support of the above conclusion. The view taken by the first appellate authority was also confirmed by the Sales Tax Appellate Tribunal ("the Tribunal", for short) by its order dated June 11, 1992. The view taken by the first appellate authority and the Tribunal in the fact-situation is unexceptionable. There is no warrant for interference.

3. The T.R.C. is devoid of any merit and it is accordingly dismissed. No costs.