(2013) 01 KAR CK 0061

In the Karnataka High Court

Case No : Sales Tax Revision Petition No. 198 of 2011

Ail Singhani Bulk Carriers — APPELLANT

Vs

State of Karnataka — RESPONDENT

Date of Decision : 10-01-2013

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 23(1)
Limitation Act, 1963 — Section 5

Citation : (2013) 75 KarLJ 129

Hon'ble Judges : D.V. Shylendra Kumar, J;B. Manohar, J

Bench : Division Bench

Advocate : Mahesh Arkalgud for Sri Arvind Kamath, - ALMT Legal, for the Appellant; T.K. Vedamurthy, High Court Government Pleader, for the Respondent

Judgement

D.V. Shylendra Kumar, J.—This revision petition u/s 23(1) of the Karnataka Sales Tax Act, 1957 is directed against the common order dated 31-10-2008 passed by the Karnataka Appellate Tribunal, Bangalore, in STA Nos. 266 and 267 of 2006 insofar as it relates to the order in STA No. 267 of 2006 is concerned. There is a delay of 712 days in preferring this revision petition. An application for condonation of delay u/s 5 of the Limitation Act is filed supported by an affidavit.

2. It is sought to be indicated that as the order was one common order in both STA Nos. 266 and 267 of 2006 and for the years 2002-03 and 2003-04, the petitioner was under the impression that one revision petition would suffice etc., and having realized the mistake has now come up with the revision petition with the application for condonation of delay.

3. Notice had been issued to the respondent-State who is represented by Sri T.K. Vedamurthy, learned Government Pleader and objections have been placed before the Court.

4. Sri Vedamurthy, learned Government Pleader points out to the order, particularly, paragraph 4 of the order passed by this Court in STRP No. 33 of

2009 Ali Singhania Bulk Carriers Vs. State of Karnataka, : Ali Singhania Bulk Carriers Vs. State of Karnataka, which was revision petition which had been filed in respect of the order relating to assessment year 2002-03 and in STA No. 266 of 2006 and submission of Sri Vedamurthy is that the revision petition was confined to the order insofar as it relates to the decision in STA No. 266 of 2006, particularly, as the petitioner-assessee had accepted the order passed in STA No. 267 of 2006 in the wake of certain facts relating to that order etc.

5. Submission of Sri Vedamurthy, learned Government Pleader is to be accepted as this order itself indicates that the assessee was very much aware of the passing of the order in other sales tax appeal in respect of which the present revision petition is now filed and has consciously chosen not to prefer revision petition, but has come up with the present revision petition with an application for condonation of delay putting forth untenable and incorrect grounds and facts.

6. However, Sri Mahesh, learned Counsel for petitioner submits that the delay may be condoned and matter may be admitted as in respect of the order passed by this Court in STRP No. 33 of 2009 assessee has approached the Supreme Court by seeking special leave and leave has been granted and appeal is admitted.

7. While that may be so, we find no justification in the present case to condone the inordinate delay and more so when the assessee was all along aware about not filing revision petition in respect of the order which is made subject-matter of the present revision petition.

8. This apart, other revision petition also came to be dismissed which has paved the way for the assessee to take up the matter further. In this view of the matter, the present revision petition is dismissed both on the ground of delay and on merits.

