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(2013) 07 AP CK 0042

In the Andhra Pradesh High Court

Case No : TRC No. 80 of 2013

A.K. Jewellery — APPELLANT

Vs

State of Andhra Pradesh — RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Citation : (2013) 57 APSTJ 99

Hon'ble Judges : Kalyan Jyoti Sengupta, C.J;G. Rohini, J

Bench : Division Bench

Advocate : K. Gurivi Reddy, for the Appellant;

Judgement

Kalyan Jyoti Sengupta, C.J.—This revision is sought to be filed on the question of applicability of Section 5 of the Limitation Act, 1963. Section 29 sub-section (2) of the said Act provides as follows:

Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Section 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.

2. Section 19(1) of the Andhra Pradesh General Sales Tax Act, 1957 (APGST Act) provides that the appeal petition to be preferred within 30 days from the date of receipt of assessment order and the appellate authority has power to condone the delay of another period of 30 days. Therefore, the total time limit to prefer appeal is 60 days. The language of the said provision is as follows:

...Provided that the appellate authority may within a further period of 30 days admit the appeal preferred after the period of 30 days, if he is satisfied that the dealer had sufficient cause for not preferring the appeal within that period.

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3. Therefore, it is clear that by the express words as above maximum period of delay that can be condone is 30 days. Logically it follows, by necessary implication, beyond 30 days, the appellate authority has no power to condone the delay. APGST ACT is a special local Statute and this Statute has to be allowed as local law as mentioned in sub-section (2) of Section 29 of the Limitation Act, 1963 exclude the applicability of Section 5 of the Limitation Act.

4. The learned Tribunal has correctly followed the provision of law. As a matter of fact, a Division Bench of this Court in Ankamma Trading Company Vs. The Appellate Deputy Commissioner and The Commercial Tax Officer and, decided in line with what we have decided. We respectfully accept the decision rendered therein. Admittedly, the appeal was filed beyond 60 days. Therefore, the learned Tribunal has held correctly. We do not find any reason to interfere with the judgment. Hence, the revision is dismissed. No order as to costs.

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