(1970) 07 KAR CK 0015

In the Karnataka High Court

Case No : Writ Petition No. 1118 of 1970

Balaji Trading Company — APPELLANT

Vs

State of Mysore and Another — RESPONDENT

Date of Decision : 13-07-1970

Acts Referred:

Mysore Sales Tax Act, 1957 — Section 12 A
Mysore Sales Tax Rules, 1948 — Rule 37

Citation : (1971) 28 STC 147

Hon'ble Judges : G.K. Govinda Bhat, J;B. Venkataswami, J

Bench : Division Bench

Advocate : K. Srinivasan, for the Appellant; P.K. Shyamsundar, High Court Government Pleader, for the Respondent

Judgement

Govinda Bhat, J.—The petitioner''s turnover in inter-State sales relating to coriander was exempted from tax under the assessment order made by the Commercial Tax Officer, III Circle, Bangalore, on 8th June, 1966. The assessment file was transferred to the Assistant Commissioner of Commercial Taxes, Bangalore City Division, Bangalore (respondent No. 2), by the Commissioner of Commercial Taxes in Mysore, Bangalore. The second respondent on 7th March, 1970, has issued a notice to the petitioner proposing to bring to tax the turnover that was exempted by the order of the assessing authority dated 8th June, 1966. The notice purports to be one issued u/s 12-A of the Mysore Sales Tax Act, 1957, read with rule 37 of the Mysore Sales Tax Rules, 1957. The contention of the learned counsel for the petitioner is that the turnover in dispute cannot be regarded as an escaped turnover for the purpose of invoking jurisdiction, u/s 12-A of the Mysore Sales Tax Act, 1957, read with rule 37 of the Rules. We have held in Writ Petition No. 6003 of 1969 (Since reported as Karnataka Trading Co. v. Commercial Tax Officer, II Circle, Bangalore [1971] 28 S.T.C. 144 today that where a particular turnover was already before the assessing authority and that turnover was exempted, the power u/s 12-A of the Act cannot be invoked for the purpose of bringing the said turnover to assessment on the ground that it is an escaped turnover. In out opinion, the impugned notice dated 7th March, 1970, issued by the second respondent is without jurisdiction and consequently it is quashed. No costs.

2. Petition allowed.

