(1983) 01 KAR CK 0002

In the Karnataka High Court

Case No : Writ Petition No. 898 of 1983

Chamundi Fine Arts APPELLANT

Vs

The State of Karnataka and Another RESPONDENT

Date of Decision : 31-01-1983

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Sales Tax Act, 1957 — Section 20, 23, 6

Citation : (1983) 2 KarLJ 362 : (1983) 54 STC 288

Hon'ble Judges : M.P. Chandrakantaraj, J

Bench : Single Bench

Advocate : B.V. Katageri, for the Appellant;

Judgement

Chandrakantaraj Urs, J.—This writ petition is directed against the assessment order dated 4th October, 1982, concluded against the petitioner for the assessment year from 1st April, 1979, to 31st March, 1980. The assessment is under the Karnataka Sales Tax Act, 1957, (hereinafter referred to as the Act). The second respondent-Additional Commercial Tax Officer, IV Circle, Mysore, has determined the gross turnover at Rs. 4,33,899. The tax collected, export sales and inter-State sales are given deduction as could be seen from the last paragraph of the assessment order. Thus, the net taxable turnover is shown at Rs. 33,971.00. That apparently constitutes purchase of handicrafts from the unregistered dealers. That has been subjected to 10 per cent surcharge in addition to 4 per cent tax charged u/s 6 of the Act. Thus the total sum of Rs. 1,495 is demanded as tax. Shri B. V. Katageri, the learned counsel for the petitioner, before me contended that the Additional Commercial Tax Officer did not have jurisdiction to subject the purchase turnover of the handicrafts from the unregistered dealers (to tax), as the same were exported out of the State. But from reading the order as a whole, it does not appear that such a stand was taken by the assessee. As is seen in the concluding part of the order, export sales in the sum of Rs. 37,745 and inter-State sales in the sum of Rs. 3,48,255 have been given deduction. In other words, what has been subjected to tax in the impugned assessment order is what was not proved to be sales in the course of export outside the State of Karnataka. That is a question of fact which has to be determined with reference to the records the assessee produced before the assessing authority and the order is an appealable order u/s 20 of the Act. Without pursuing those remedies merely on the plea that the second respondent had no jurisdiction, Shri B. V. Katageri, contends that this Court should interfere and strike down that demand and the assessment order in so far as it relates to levy of tax under the Act. I do not find any substance in the contention urged by the learned counsel for the petitioner. There is no inherent lack of jurisdiction for the second respondent-Additional Commercial Tax Officer to pass the impugned order in question. If he has erred either on fact or on law the same can be corrected by the appellate authority. Thereafter, second appeal lies to the Karnataka Appellate Tribunal from the order of the appellate authority. There is a revision also provided for u/s 23 of the Act to this Court. Without exhausting the more efficacious remedies that are available to the petitioner under the Act, this is not a fit case in which this Court should interfere under article 226 of the Constitution. Accordingly, the writ petition is rejected.

