(2002) 01 KL CK 0067

In the High Court Of Kerala

Case No : T.R.C. No. 120 of 1999

Deputy Commissioner (Law), Commercial Taxes APPELLANT

Vs

Krishna Plastics RESPONDENT

Date of Decision : 10-01-2002

Acts Referred:
Kerala General Sales Tax Act, 1963 — Section 19

Citation : (2002) 128 STC 39

Hon'ble Judges : V.P. Mohan Kumar, J;K.K. Denesan, J

Bench : Division Bench

Advocate : Georgekutty Mathew, Government Pleader, for the Appellant; S.K. Devi, M. Raj Mohan, Santhosh P. Abraham, Frankur D. Jayan and Deepsur D. Jayan, for the Respondent

Final Decision : Dismissed

Judgement

K.K. Denesan, J.—This tax revision case is directed against the order passed by the Sales Tax Appellate Tribunal holding that the assessing authority is not justified in estimating the purchase turnover by best judgment assessment on the ground that the assessee who is a manufacturer and trader of fibre glass boats failed to maintain manufacturing account.

2. The relevant assessment year is 1990-91. The assessing authority on the premise that there was suppression of account completed the assessment by addition of fifty per cent in the purchase turnover. The appeal filed by the assessee was partly allowed by the Additional Appellate Assistant Commissioner who on his part reduced the addition to 5 per cent. Dissatisfied, in spite of the reduction, the respondent-assessee filed appeal before the Tribunal. The assessee succeeded before the Tribunal. Aggrieved, the Revenue has filed this revision case.

3. We have heard the learned Government Pleader for the Revenue and the learned counsel for the assessee.

4. It is contended for the Revenue that the assessee being a manufacturer and trader of fibre glass boats, is bound to maintain manufacturing account and that absence of manufacturing account is a circumstance justifying the assessing authority to infer suppression of purchase turnover by the assessee.

5. We notice that though the assessee did not maintain manufacturing account it had correctly maintained the opening and closing account. There is no dispute about the fact that verification of the books maintained by the assessee does not lead to the inference that there is suppression of the turnover. The assessee has put forward an explanation for not maintaining the manufacturing account. The assessee contends that fibre glass boats are manufactured against specific orders from customers and that evaluation of the consumption of the materials in each case is not feasible. It is also pointed out that materials left over in the course of production in one case are often capable of use in other cases and, in fact, are so used. Having regard to the nature of the work thus done by the assessee, the Tribunal found the assessee''s explanation plausible. It is therefore clear that the assessing authority went wrong in estimating the turnover by addition on the hypothesis of suppression solely based on the absence of the manufacturing account.

6. We do not think that the finding of the Tribunal is either perverse or arbitrary warranting the exercise of the revisional power. In the result the tax revision case fails and it is accordingly dismissed.