
(2008) 06 KAR CK 0021
In the Karnataka High Court
Case No : S.T.R.P. No. 31 of 2008

Fosroc Chemicals (India) Private Limited	APPELLANT
Vs	
State of Karnataka	RESPONDENT

Date of Decision : 09-06-2008

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 12 (3), 6 B, 8 A

Citation : (2009) 26 VST 440

Hon'ble Judges : V. Gopala Gowda, J; Ravi Malimath, J

Bench : Division Bench

Advocate : K.S. Ramabadran, for the Appellant;

Final Decision : Dismissed

Judgement

V. Gopala Gowda, J.—This revision petition is filed by the assessee questioning the correctness of the order dated September 4, 2007 passed by the Karnataka Appellate Tribunal (hereinafter called as, "the Tribunal", in short) in STA No. 1655/2004 urging various grounds in support of the following questions of law framed in the memorandum of revision petition:

(i) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in passing the order in the manner it did?

(ii) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in not applying the judgment of this honourable court in the case of Deepam Silk International [2004] 134 STC 337 sc?

(iii) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in holding that the notifications in question issued under the Act cannot be given effect to from the earlier period prior to the date of the notifications?

(iv) Whether, on facts and in the circumstances of the case, the Appellate Tribunal's order is in accordance with law?

2. The assessee has placed reliance upon the exemption notification dated January 1, 2000, issued by the State Government u/s 8A of the Karnataka Sales Tax Act ("the KST Act") exempting payment of turnover tax u/s 6B of the Act by a dealer and another notification relating to sale or purchase of goods enumerated therein.

3. The assessing officer passed assessment order u/s 12(3) of the Act read with Rule 18(3) of the Rules framed thereunder by overruling the objections filed by the assessee and fastened the liability on the assessee for payment of turnover tax. The correctness of the same was questioned before the first appellate authority-Joint Commissioner of Commercial Taxes (Appeals), who concurred with the findings recorded by the assessing authority and by assigning reasons dismissed the appeal by his order dated April 12, 2004. The correctness of the same was questioned by the assessee by filing second appeal before the Tribunal. The Tribunal has confirmed with the findings of the assessing authority and first appellate authority and rejected the contention of the assessee and held that the exemption notifications have no retrospective effect.

4. The correctness of the findings of the authorities below is questioned in this revision petition placing reliance upon the decision of this Court in *Deepam Silk International and Others Vs. State of Karnataka and Others*, and the decision of the apex court in the case of *Mathra Prashad and Sons Vs. State of Punjab*, . It is contended that in the absence of specifying the effective date of the exemption notification, if it is issued in the middle of the assessment year, it dates back to the assessment year. The said contention has been negated by the first appellate authority by recording its valid reasons in the order impugned before the Tribunal. The Tribunal has examined the said contention and held that in the exemption notification it is clearly mentioned that the benefit is available with immediate effect, that is, from the date of notification dated January 1, 2000 but whereas the assessee is claiming the said benefit retrospectively with effect from April 1, 1999. It is thus clear that the exemption granted in the said notification was prospective from the date of issuance of the notification and the same cannot be extended to a back period. Therefore, the Tribunal has rightly held that the decision in *Deepam Silk International and Others Vs. State of Karnataka and Others*, has no application to the case on hand. Even the decision of the apex court pressed into service before us has no application to the fact-situation. The claim of the assessee is wholly untenable in law. The order passed by the assessing officer, affirmed by the first appellate authority and confirmed by the Tribunal are in conformity with the provisions of the Act and the exemption notification. The authorities have rightly rejected the contention of the assessee and we do not find any ground to interfere with the same. The questions of law framed in the memorandum of revision petition do not arise. The revision petition is devoid of merit and liable to be dismissed.

5. Accordingly, the revision petition is dismissed.