(2007) 03 KAR CK 0041

In the Karnataka High Court

Case No : Sales Tax Revision Petition No. 53 of 2006

J.M. Richards and Company, Bangalore — APPELLANT

Vs

State of Karnataka — RESPONDENT

Date of Decision : 07-03-2007

Acts Referred:
Karnataka Sales Tax Act, 1957 — Section 23(1)

Citation : (2009) 67 KarLJ 201

Hon'ble Judges : Anand Byrareddy, J;R. Gururajan, J

Judgement

R. Gururajan, J.-At our instance, Smt. Sujatha, learned Government Advocate accepts notice for the State. The matter is taken up for final disposal with the consent of the learned Counsel.

2. The assessee is before us aggrieved by the order of the Tribunal in the case on hand. The assessee filed the assessment returns for the assessment year 1996-97. He thereafter filed revised returns before the Assessing Authority. An ex parte order was passed in the matter and an appeal was filed. The appeal was allowed and the matter was remanded for re-decision. Even after remand, the assessee did not co-operate by way of appearing before the Assessing Officer. Hence, second ex parte order was passed. An appeal was filed and the appeal stood dismissed. Thereafter, the assessee moved the Tribunal. The Tribunal has dismissed the appeal noticing the conduct of the assessee. The assessee is therefore before us.

3. Heard Sri Gandhi, learned Counsel for the petitioner and Smt. S. Sujatha, learned Government Advocate.

4. Sri Gandhi, learned Counsel would plead before us that an opportunity may be given taking into consideration the grounds and the facts raised in the case on hand.

5. Smt. S. Sujatha, learned Government Advocate says that this is a second round of litigation.

6. After hearing, we have carefully perused the material placed on record. It is no doubt true that the assessee alone has to be blamed for the present situation. However, we see from the order of the Tribunal that the assessee has chosen to place some material in addition to his contention. That material may have some bearing on the facts and circumstances of the case. Taking into consideration, the filing of some material before the Tribunal and the facts and circumstances of the case, we deem it proper to provide an opportunity to the appellant. However, it cannot be without any condition. In the circumstances, we deem it proper to direct the appellant to pay a sum of Rs. 5,000/- as costs and the said cost has to be made over to the Indian Federation of Women Lawyers.

7. In the result, this appeal is accepted. The order of the Tribunal is set aside. Instead of remanding the matter to the Tribunal, we deem it proper to remand the matter to the First Appellate Authority for disposal of the case at the earliest point of time. The petitioner to appear without waiting for any notice on 9-4-2007 before the First Appellate Authority. Liberty is reserved to the petitioner to file documents before the Tribunal or any other material before the First Appellate Authority. The First Appellate Authority is to consider the material on record and to proceed to complete the proceedings within three months thereafter, without in any way being influenced by the earlier proceedings or by this order. No opinion is expressed on the merits of the matter.

8. We however deem it proper to clarify that the opportunity is subject to the appellant producing an acknowledgement for having deposited Rs. 5,000/- as costs to terms of our order before the First Appellate Authority. We also make it clear that in the event of non-appearance of the appellant on 9-4-2007, the First Appellate Authority is directed to proceed with the case in accordance with law. Ordered accordingly. No costs.