(2006) 07 KL CK 0105

In the High Court Of Kerala

Case No : S.T. Rev. No''s. 85 and 86 of 2006

K. Balakrishnan Nair APPELLANT

Vs

State of Kerala RESPONDENT

Date of Decision : 31-07-2006

Acts Referred:
Kerala General Sales Tax Act, 1963 — Section 39(1), 39(4), 39(7), 41(1)

Citation : (2009) 20 VST 374

Hon'ble Judges : K.M. Joseph, J;C.N. Ramachandran Nair, J

Bench : Division Bench

Advocate : T.M. Shreedharan and C.K Sherin, for the Appellant; V.V. Asokan, Special Government Pleader for Taxes, for the Respondent

Final Decision : Dismissed

Judgement

C.N. Ramachandran Nair, J.—It is seen from the impugned orders that appeals were dismissed as not maintainable because delay condonation petitions filed along with the appeals were also dismissed. We find that Section 41(1) of the Kerala General Sales Tax Act, 1963 provides for revision against orders of the Sales Tax Appellate Tribunal passed under sub-sections (4) and (7) of Section 39 of the KGST Act. While sub-section (4) deals with decision on merits in the appeal, sub-section (7) deals with the decision of the Tribunal in review petition. In this particular case, petitioner filed appeals before the Tribunal with inordinate delay and along with the appeals delay condonation petitions were filed. By separate orders, the Tribunal dismissed the delay condonation petitions and consequently appeals were found not maintainable and dismissed by the orders which are subject-matter in these revision cases. We find that even though in the impugned orders, the Tribunal has stated that the appeals are dismissed, in effect, these are orders of the Tribunal refusing to admit the appeals beyond the period of limitation by virtue of the proviso to Section 39(1) of the KGST Act consequent upon their dismissing the delay condonation petitions. Therefore, in our view, the impugned orders declining to entertain the appeals by the Tribunal are not revisable u/s 41(1) of the KGST Act. However, it will be open to the petitioner to challenge the impugned orders probably in a writ petition. So long as the Revisions are not maintainable under the statute, we are unable to entertain the revision cases.

2. The revision cases are accordingly dismissed.