(2010) 10 KAR CK 0128

In the Karnataka High Court

Case No : W.A. No''s. 3923-3934 of 2010 (T-RES)

Karnataka State F.I.C. Ltd. APPELLANT

Vs

D.C. of Comml. Taxes (Audit-14), Bang. RESPONDENT

Date of Decision : 28-10-2010

Acts Referred:

Citation : (2012) 27 STR 131

Hon'ble Judges : Manjula Chellur, J;K. Govindarajulu, J

Bench : Division Bench

Advocate : T.K. Veda Murthy, GP, for the Appellant;

Judgement

Manjula Chellur, J.—Heard the learned Counsel for the appellant as well as learned Government Advocate Mr. Vedamurthy. According to the appellant Counsel, the appellant being the State Government undertaking, admitted the VAT amount paid by the appellant and disputed amount pertains to the transactions on which Service Tax was leviable. Therefore, there need not be any direction to deposit 50% of the VAT amount demanded by the Departments, pending disposal of Writ Petitions.

2. According to the learned Government Advocate in number of judgments of Division Bench of this Court, on earlier occasion, direction was issued to collect Service Tax and VAT as well. Hence, the writ petitions filed by the appellant are not maintainable and question of entertaining these appeals would not arise.

3. Learned Counsel for the appellant relies upon the judgment of Supreme Court in case of Bharat Petroleum Corp. Ltd. v. Commissioner of Sales Tax and Others reported in (2008) 17 VST 162 (SC) on the ground that to substantiate her contention that appellant being the State Government Undertaking and having paid the VAT liability under the Act regularly, there need not be any conditional interim order of depositing 50% of the VAT amount demanded by the respondents.

4. In the abovesaid case of Apex Court, their Lordships have observed that

Supreme Court did not interfere in the interim order particularly with the matters concerned with the levy of Tax. Peculiar circumstances prevailed so as to grant relaxations as the assessees was a public Sector Company handling kerosene distribution system and the demand was for 1.34 crores. Therefore granting conditional order of stay to deposit 50% of the tax demanded to enjoy the interim order need not be there, by taking an undertaking that in the event of revenue succeeding in these appeals, that assessee would pay the tax due with interest in accordance with the provisions of the concerned Act would be just and proper.

5. In the light of the above facts that it is a substantial Company in a sound financial condition, we are of the opinion that there is no justification in imposing a condition of depositing 50% of the Tax demanded to enjoy the interim order. Accordingly, we modify the interim order so far as imposition of condition in depositing 50% of the principal dues amounting to more than I crore within 10 days from the date of order of stay. Upholding the grant of interim order of stay, we direct the appellant and revenue to seek the permission of the learned Single Judge to hear the matter on merits at an early date. With these observations appeals are disposed off.