(2013) 01 KAR CK 0044

In the Karnataka High Court

Case No : Sales Tax Appeal No''s. 512 to 523 of 2012

Krishna Kumar Sud — APPELLANT

Vs

The Additional Commissioner of Commercial Taxes, Zone-1 — RESPONDENT

Date of Decision : 11-01-2013

Acts Referred:

Karnataka Value Added Tax Act, 2003 — Section 64(1)

Citation : (2013) 75 KarLJ 384

Hon'ble Judges : V. Suri Appa Rao, J;H.N. Nagamohan Das, J

Bench : Division Bench

Advocate : E.I. Sanmathi and H.R. Kambiyavar, for the Appellant; Mahesh Wodeyar, Additional Government Advocate, for the Respondent

Judgement

H.N. Nagamohan Das, J.—This appeal is directed against the revisional order dated 26-10-2009 Annexure-A passed by the Additional Commissioner of Commercial Taxes at Bangalore u/s 64(1) of the Karnataka Value Added Tax Act, 2003. Though appellant raised as many as five questions of law, we are of the considered opinion that the following question of law will suffice for consideration of this appeal.--

Whether on the facts and circumstances of the case the revisional order passed by the respondent-Additional Commissioner and the consequential order and demand raised thereto is liable to be set aside on the grounds of violation of principles of natural justice?

2. We perused the impugned order at Annexure-A and the same specifies that appellant did not had a fair opportunity to contest the proceedings and to put forth their version. The Revisional Authority by only considering the version of the revenue passed the impugned order. In the facts and circumstances of this case, the explanation offered by the appellant for the absence before the Additional Commissioner appears to be bona fide, reasonable and genuine. One more opportunity is to be provided to the appellant. Therefore, we answer the above question of law in favour of the appellant. For the reasons stated above,

the appeal is hereby allowed. The impugned order at Annexure-A, dated 26-10-2009 is hereby set aside. The matter is remanded to the respondent-Additional Commissioner of Commercial Taxes for reconsideration in accordance with law. It is made clear that no fresh notice will be issued by the Additional Commissioner for Commercial Taxes to the appellant. On 13-2-2013 the appellant shall appear before the respondent-Additional Commissioner. Ordered accordingly.

