(2012) 08 KAR CK 0361

In the Karnataka High Court

Case No : Sales Tax Revision Petition No. 42 of 2006

L and T Komatsu Limited APPELLANT

Vs

State of Karnataka RESPONDENT

Date of Decision : 09-08-2012

Acts Referred:

Citation : (2013) 75 KarLJ 52

Hon'ble Judges : K. Sreedhar Rao, J;B. Manohar, J

Bench : Division Bench

Advocate : T.S. Suresh and Sri. R.V.S. Naik, for the Appellant; S. Sujatha, Additional Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

K. Sreedhar Rao, J.—The appellant/assessee is the manufacturer of earthmoving equipments. The appellant/assessee effected the sale of 41 earthmoving equipments to a local registered dealer. The local dealer thereafter moved the equipments outside the State. It is the contention of the assessee that the sale has been effected to a local consignee. Therefore, it is submitted that the State sales tax is applicable and not the Central sales tax. The AO made provisional assessment holding that the sale is inter-State sale and therefore the Central sales tax would attract. The order of the AO was challenged in appeal before the Deputy Commissioner of Commercial Taxes, who confirmed the order of AO. The assessee aggrieved by the said order filed an appeal before the Tribunal. The Tribunal allowed the appeal and set aside the order of the AO and remanded the matter to the jurisdictional Assessing Authority for disposal. The Tribunal, however, in the course of the order has made some observations to the effect that the sale made by the assessee is inter-State sale and the provisional order was set aside. Therefore, the Tribunal held that since it is a case of ripe for regular assessment, the matter was remanded to the jurisdictional Assessing Authority. Hence, the assessee aggrieved by the said order has filed this revision petition. The impugned order in question is only a provisional order. The case is ripe for regular assessment. Therefore, it is just and proper to remand the matter to the jurisdictional Assessing Authority for fresh consideration and disposal in accordance with law. The AO shall not be influenced the observation made by the Tribunal in its order. The AO shall give an opportunity to the assessee to establish its case.

All the contentions are left open to be decided by the AO.