(2007) 03 KAR CK 0040

In the Karnataka High Court

Mamatha Enterprises, Harihar — APPELLANT

Vs

State of Karnataka — RESPONDENT

Date of Decision : 12-03-2007

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

Citation : (2009) 67 KarLJ 205

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

Judgement

1. Assessee is before us. The Assessing Authority passed an ex parte order under Section 12(3) of the Karnataka Sales Tax Act, 1957, for the assessment year 1991-92 on 17-2-1997. An appeal was filed and the appeal stood dismissed. However, the Appellate Authority has stated that the appellant-petitioner has to make over the tax in terms of its finding in the case on hand. Aggrieved by the said order, appellant-petitioner filed an appeal before the Tribunal. The Tribunal has chosen to pass the impugned order.

2. At our instance, Smt. S. Sujatha, learned High Court Government Pleader accepts notice for respondent.

3. Parties are heard for final disposal.

4. After hearing, we have carefully perused the impugned order of the Tribunal. The Tribunal has chosen to say that it is unnecessary for it to consider the matter in the light of the remand order passed by the Appellate Authority. The Tribunal has also noticed that the appellant-petitioner has to be assessed in the case on hand. The Tribunal in our view has correctly not chosen to enter into the merits of the matter. However, we find substance in the argument of the learned Counsel for the petitioner, that the Tribunal having come to a conclusion that the appellant-petitioner is liable to be assessed, ought not to have stated that the appeals could not have been filed by the appellant-petitioner.

5. In these circumstances, this appeal stands disposed of with a clarification that the appellant-petitioner is at liberty to file an appeal to the Tribunal in the event

of an adverse order at the hands of the Appellate Authority.

6. Smt. S. Sujatha, learned High Court Government Pleader is permitted to file memo of appearance within four weeks from today.