

(1991) 08 KAPT CK 0001

In the Karnataka Appellate Tribunal

Case No : Sales Tax Appeal No. 939 of 1990

M/s. Naveen Garments, Hubli

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 08-08-1991

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 12B(3)

Citation : (1994) 38 KarLJ 264

Hon'ble Judges : N. R. Kanchi, D.J.M.; V. R. RadhakrishnaCTM, J

Judgement

V.R. Radhakrishna, CTM.-This appeal is filed against the order dated 13-7-1990 of the Deputy Commissioner of Commercial Taxes (Appeals), Hubli (hereinafter called as "First Appellate Authority"), by which he dismissed the appeal filed by the appellant against the assessment order passed by the Commercial Taxes Officer, 4th Circle, Hubli (hereinafter referred to as "Assessing Authority") for the year 1985-86.

2. The facts of the case are as under:

The appellant is a dealer in readymade garments at Hubli. For the period from 1-4-1985 to 31-3-1986, the appellant filed a return of turnover in Form 4 declaring his total and taxable turnover at Rs. 8,59,574-35/Rs. 3,83,693-11. The assessing authority after verifying the books of accounts finalised the assessments by determining the total and taxable turnovers at Rs. 8,75,000/-/Rs. 4,25,000/-. Aggrieved by the above order, the appellant preferred an appeal before the First Appellate Authority, who in turn dismissed the same. Hence, the appellant is before us.

3. Sri L.G. Urankar, Advocate, appearing for the appellant submitted that the action of the assessing authority in rejecting the returned figures is highly improper, illegal and opposed to the principles of law. The assessing authority without assigning any reason has rejected the reported turnovers. The appellant has maintained the books of accounts correctly and in a verifiable manner and all the sales and purchases are classified and when that is so there is no scope for

enhancing the turnovers. As such he requested for a direction to the assessing authority to accept the returned figures.

4. Sri G. Siddappa, State Representative, submitted that the orders of the lower authorities are in accordance with law, since on verifying the books of accounts the assessing authority has found that the appellant has not properly maintained the books of accounts in the usual course of business. The appellant has wrongly classified hosiery goods which are liable to tax as exempted commodity and when this is considered, the additions made to the reported turnovers is quite fair and reasonable and hence he requested to dismiss the appeal.

5. Heard the rival counsels and also perused the connected records. The only issue that arise for our consideration in this appeal is whether the action of the assessing authority in concluding the assessments to the best of his judgment under Section 12-B(3) of the Act is in accordance with law or not. The assessing authority after verifying the books of accounts maintained by the appellant are not acceptable for the following reasons:

(a) The opening and closing stocks are not supported by detailed inventory;

(b) The appellant has wrongly classified the purchases of nylon hosiery as exempted category, which is not correct.

It is this fact that made the assessing authority to come to the conclusion that the books of accounts maintained by the appellant are not proper and hence the reported turnover cannot be accepted as true and correct as such. In reply to the pre-assessment notice, the appellant admits the above omissions, but expressed his inability to rectify the same on account of practical difficulties. When this is considered, we find the action of the assessing authority in assessing the appellant to the best of his judgment is perfectly in accordance with law. Even the estimations made which is around Rs. 15,000/- in respect of gross turnover and around Rs. 41,000/- in respect of the taxable turnover appears to be quite reasonable. Hence, we do not find any reason to interfere with the orders passed by the lower authorities.

6. In the result, we make the following:

ORDER

The appeal is dismissed.