(1998) 03 KAR CK 0059

In the Karnataka High Court

Case No : Sales Tax Appeal No. 57 of 1995

M/s. Vishal Khandasari Private Limited, Bidar — APPELLANT

Vs

The Additional Commissioner of Commercial Taxes, Davangere Zone, Davangere — RESPONDENT

Date of Decision : 11-03-1998

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 2(1)(V)
Karnataka Sales Tax Rules, 1957 — Rule 6(4)(F)

Citation : (1999) 47 KarLJ 136

Hon'ble Judges : S. R. Bannurmath, J;Y. Bhaskar Rao, J

Judgement

Y. Bhaskar Rao, J.-In this appeal, the assessee has assailed the order dated 27-3-1995 passed by the Additional Commissioner of Commercial Taxes, Davangere Zone.

2. The facts of the case are that the appellant is a manufacturer of Khadasari sugar in Manhalli, H.O. Gandhi Gunj, Bidar, Karnataka State. He purchases sugarcane both from the State of Karnataka and the adjoining State of Andhra Pradesh. For the assessment year 1990-91, the assessee had pleaded that he has paid sugarcane price as fixed by the Government to the growers and freight charges were paid separately to the truck owners, tractor owners, bullock cart owners etc. He therefore claimed exemption in respect of the freight charges paid both in respect of the purchases made within the State and Andhra Pradesh. The Assessing Authority did not accept that version and included the same for the purpose of turnover tax. Assailing the said order, the assessee filed an appeal. The Appellate Authority, after perusing the entire record, came to the conclusion that the records reveal that the assessee has paid the sugarcane price to the growers separately and transport charges separately to the truck owners. Therefore, the said amount of Rs. 4,23,926/- cannot be included in the purchase price and turnover and accordingly granted exemption to that amount. Afterwards, the Revisional Authority issued a notice to the assessee under Section 22-A(1) of the Karnataka Sales Tax Act, 1957 and revised the order of

the Appellate Authority, including the relief granted by the Appellate Authority in respect of the transport charges of Rs. 4,23,926/-. Aggrieved by this order, the assessee has approached this Court.

3. The learned Counsel appearing for the appellant-assessee solely contended before us that though the Appellate Authority has given relief to the extent of Rs. 4,23,926/- towards transport charges and not to include in the turnover, the Revisional Authority revised the same without any valid reason and therefore the same cannot be accepted. The learned Government Advocate contended that the Revisional Authority has elaborately considered the matter and arrived at the conclusion that the amount of Rs. 4,23,926/- cannot be included in the purchase price and turnover and therefore it does not call for interference by this Court.

4. We have perused the order of the Revisional Authority and also the Appellate Authority. On a careful consideration of the account books produced by the assessee shows that the sugarcane growers were paid separately and so also transport charges. Therefore, the transport charges paid by the assessee has to be excluded from the turnover. The Revisional Authority''s order is based on mere surmises. Therefore, the order under appeal is set aside to that extent and the remaining part of the order under appeal is left undisturbed.

5. The appeal is accordingly disposed of.

