(2001) 04 KAR CK 0037

In the Karnataka High Court

Case No : Civil Revision Petition No. 986 of 2001

Ravikumar Traders, Bangalore — APPELLANT

Vs

Commissioner of Commercial Taxes, Bangalore — RESPONDENT

Date of Decision : 09-04-2001

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 23
Karnataka Tax on Entry of Goods Act, 1979 — Section 15A

Citation : (2001) 51 KarLJ 109

Hon'ble Judges : R. Gururajan, J;M. F. Saldanha, J

Judgement

M.F. Saldanha, J.-We have heard the petitioner''s learned Advocate for some time and we have also heard the learned Government Advocate on merits. We refrain from making any comment with regard to the merits of this petition for only one reason because in the course of the submissions it transpires that originally a composite order has been passed and that the Tribunal has remanded the case to the Assessing Authority for certain reasons for a reconsideration of the issues involved under the Karnataka Sales Tax Act. The present petition concerns the tax penalty etc., in relation to entry tax and even though there is some controversy with regard to the question as to whether the Tribunal was justified in having dismissed the appeals on the ground of non-payment of the tax, what we find is that the main dispute has in fact been remanded for a reconsideration. The petitioner''s learned Advocate further informs us that the Department has taken out certain recovery proceedings through the Court of the Judicial Magistrate First Class and has recovered the entire amount of Rs. 3,99,378/-. Whether this position is correct or not will be verified by the Assessing Authority.

2. In our considered view, and purely in order to avoid an incongruous position which will arise if one part of the case is reconsidered and the connected issues are treated as having become final, we set aside the impugned orders and direct the Assessing Authority to reconsider the issues arising under the levy of entry tax also. The case is accordingly remanded to the Assessing Authority but we leave the option open to the Assessing Authority who may, if it is considered

necessary or desirable, issue notice to the petitioners, hear them and pass appropriate orders according to law.

3. The petition succeeds to this extent and stands disposed off. No order as to costs.