(2012) 09 KAR CK 0105

In the Karnataka High Court

Case No : Sales Tax Appeal No. 1 of 2011 (Tax)

Satyam Computers Services Limited — APPELLANT

Vs

The Additional Commissioner of Commercial Taxes — RESPONDENT

Date of Decision : 21-09-2012

Acts Referred:

Citation : (2013) 75 KarLJ 127

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

Bench : Division Bench

Advocate : T. Suryanarayana for M/s. King and Partridge, for the Appellant; T.K. Vedamurthy, High Court Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

K. Sreedhar Rao, J.—The sale made by the appellant/assessee to an extent of Rs. 1,82,68,842.00 was an inter-State sale from Hyderabad. The CST has been accordingly paid on the said turnover. The Assessing Officer, however, held otherwise that it is not inter-State sale, but it is sale in Karnataka. Hence, the Assessing Officer levied the tax at 10% with interest and penalty. The Joint Commissioner (Appeals) granted the relief and allowed the appeal holding that the sale made by the assessee is an inter-State sale from Hyderabad. The Additional Commissioner while exercising the revisional power held that it is a local sale and levied the tax at 4%. The assessee made an application vide Annexure-O before the Additional Commissioner of Commercial Taxes submitting that since the sale having been held as local sale, the CST paid on the said turnover should be refunded and in respect of the levy of local tax of Rs. 7,30,794.00, it was requested that the said amount to be adjusted towards the amount which the assessee is entitled to pay towards CST. The Additional Commissioner of Commercial Taxes without addressing to the question raised in the request has held that it is inter-State sale and the assessee has not placed any credible materials to substantiate the same. The photocopy certificate issued by the Chartered Accountant is not authenticated document to substantiate that it is inter-State sale. Hence, he rejected the application in fact revision. The assessee accepted the revisional order holding that it is a local sale and prepared to pay the tax. The request for refund of the tax paid towards CST has not been considered by the Additional Commissioner of Commercial Taxes. Therefore, the impugned order is set aside and the matter is remitted to the Additional Commissioner of Commercial Taxes for fresh consideration in accordance with law. Accordingly, the appeal is allowed.

