(2011) 02 KAR CK 0179

In the Karnataka High Court

Case No : S.T.A. No. 38 of 2010

Shilpa Enterprises APPELLANT

Vs

State of Karnataka RESPONDENT

Date of Decision : 11-02-2011

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 22 A (1)

Citation : (2012) 51 VST 56

Hon'ble Judges : Ravi Malimath, J;N. Kumar, J

Bench : Division Bench

Advocate : R. Ramamurthy and Kashinath Kalmath, for the Appellant;

Final Decision : Dismissed

Judgement

N. Kumar, J.—This appeal is by the assessee challenging the order passed by the revisional authority, which has set aside the order passed by the first appellate authority which had granted deduction of actual expenditure incurred and substituted the same with 30 per cent of the expenditure. The assessee is a civil works contractor. His return was processed and the assessing authority declined to grant the actual expenditure claimed by the assessee and on verification of records, it restricted the labour and like charges at Rs. 30,01,758 which is 25 per cent of the total contract receipts disclosed at Rs. 1,17,98,567. Aggrieved by the same, the assessee preferred an appeal. The appellate authority held that the assessing authority has not pointed out the reasons for not accepting the documents adduced in support of his claim for deduction towards labour and like charges. If recorded a finding that the documents produced by the assessee clearly demonstrate that he has maintained accounts and the said accounts were supported by vouchers and therefore, he is entitled to the deductions on the basis of actual expenditure incurred. Accordingly, the order of the assessing authority was set aside and the assessing authority was directed to give deductions as per return of turnover filed in form 4 (revised) and thereafter re-compute the taxable turnover and calculate the taxes payable. Thereafter, the

Additional Commissioner of Commercial Taxes, initiated proceedings u/s 22A(1) of the Karnataka Sales Tax Act, 1957 (for short, hereinafter referred to as "the Act") and issued a show-cause notice. Thereafter, the assessee produced the very same documents, which he had produced before the assessing authority. On consideration of the aforesaid documents produced before him, the authority held that the claim of labour charges and other like charges at Rs. 50,67,304 was not supported by proper, relevant and supporting evidences, However, it held that in the absence of actual labour charges and like charges being established in law, the assessee is entitled to 30 per cent of the actual expenditure incurred and he granted the said benefit. Aggrieved by the said order, the assessee is before this court.

2. The learned counsel for the assessee assailing the impugned order contended firstly that the initiation of proceedings u/s 22A(1) is without jurisdiction. Secondly, he contended that when the entire statement of books of accounts was produced, which clearly showed the actual expenditure incurred by the assessee in execution of the contract work, the revisional authority committed a serious error in ignoring the same and restricting the deductions only to 30 per cent. Therefore, he submits that a case for interference is made out.

3. We do not see any substance in the said contention. The assessing authority took note of all the documents produced and found that the entries in the books of account are not supported by the vouchers and receipts and therefore, he declined to grant the deductions on the basis of books of account. After proper verification, he gave deductions only to those entries, which were supported by vouchers and receipts, which came to about 25 per cent. However, the appellate authority without proper verification, acting only on the basis of the entries made in the books of accounts held that the assessing authority restricted the claim without proper verification of the books of accounts''. Certainly, the said order is contrary to the material on record and as such it is injurious and against the Revenue. Therefore, the revisional, authority was justified in initiating the proceedings u/s 22A(1) of the Act. The revisional authority has looked into the books of accounts, vouchers, receipts and other supporting documents and has recorded a categorical finding that though there are entries in the books of accounts to the expenditure of Rs. 50,67,304 as the expenditure incurred in the execution of the contract work the entire account is not supported by vouchers and receipts. Therefore, it rejected the claim and granted 30 per cent deductions which is statutorily allowable. Under these circumstances, we are satisfied that the exercise of jurisdiction by the revisional authority is warranted and if he had not exercised the same, he would have failed in his duty to protect the interest of the Revenue. We do not see any substance in this appeal. Accordingly, it is rejected.