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(1975) 02 KAR CK 0006

In the Karnataka High Court

Case No : Writ Petition No. 4863 of 1974

Shrishailappa APPELLANT

Vs

Commercial Tax Officer, Jamkhandi and Another RESPONDENT

Date of Decision : 07-02-1975

Acts Referred:

Karnataka General Clauses Act, 1899 — Section 24
Karnataka Sales Tax Act, 1957 — Section 8 A

Citation : (1975) ILR (Kar) 1192 : (1975) 2 KarLJ 190 : (1975) 36 STC 223

Hon'ble Judges : E.S. Venkataramiah, J

Bench : Single Bench

Advocate : S.P. Bhat, for the Appellant; H.N. Narayan, High Court Government Pleader, for the Respondent

Judgement

Venkataramiah, J.—The petitioner is a dealer in dyes. Under the provisions of the Karnataka Sales Tax Act, as it stood immediately prior to 10th September, 1970, the petitioner was liable to pay sales tax on the turnover relating to dyes at 6 per cent of the turnover - vide entry 97 of Schedule II of the Act as in force then. By virtue of a notification issued u/s 8A dated 10th September, 1970, by the State Government, the sales tax payable on the turnover relating to dyes was reduced to 4 per cent. The petitioner was payable sales tax accordingly till 1st April, 1974. The sales tax payable in respect of dyes was enhanced to 8 per cent by the Karnataka Sales Tax (Amendment) Act (Act 14 of 1974) by the State Legislature with effect from 1st April, 1974. Again by another notification issued by the State Government on 7th June, 1974, the sales tax payable on dyes was reduced to 4 per cent with effect from 1st July, 1974. In this writ petition, the petitioner has prayed for a declaration that he is liable to pay sales tax in respect of his turnover relating to dyes at 4 per cent only and not at the rate of 8 per cent during the period between 1st April, 1974, and 1st July, 1974. The contention of the petitioner is that notwithstanding the amendment of the Sales Tax Act by the Karnataka Sales Tax (Amendment) Act, 1974, the liability of the petitioner to pay sales tax was governed by the notification dated 10th

September, 1970, which had been issued by the State Government prior to the amendment which came into force on 1st April, 1974. In support of the above submission, the petitioner has relied upon the provisions of section 24 of the Karnataka General Clauses Act. It is argued that since the notification issued on 10th September, 1970, had remained undecided till 1st July, 1974, the petitioner was entitled to claim the benefit of the reduced rate of tax fixed by the notification. It is not possible to agree with the submission made on behalf of the petitioner. It is no doubt true that the State Government in exercise of its power u/s 8A of the Act had reduced the liability of a dealer to 4 per cent of his turnover in respect of dyes by the notification dated 10th September, 1970. That notification could be in operation till 1st April, 1974, on which date the Amendment Act No. 14 of 1974 came into force. The legislature, which is the highest legislative body in the State, declared on and after 1st April, 1974, that the turnover relating to dyes should be subject to tax at the rate of 8 per cent of the turnover. The notification issued earlier by the State Government which was inconsistent with the legislative declaration cannot be held to prevail over the amending Act. Section 24 of the General Clauses Act would be of no avail to the petitioner because the said section can be pressed into service only when there is no inconsistency between the notification issued earlier and the subsequent legislative declaration. The petitioner is, therefore, liable to pay sales tax at the rate of 8 per cent. in respect of his turnover relating to dyes in accordance with the amending Act until the State Government again by notification reduced the rate of sale tax to 4 per cent. with effect from 1st July, 1974. Hence, there is no substance in this petitioner and it is dismissed. No costs.

2. Petition dismissed.

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