(2001) 03 KAR CK 0107

In the Karnataka High Court

Case No : S.T.A. No. 94 of 1997

Spaceway Design Industries — APPELLANT

Vs

State of Karnataka — RESPONDENT

Date of Decision : 01-03-2001

Acts Referred:

Citation : (2001) 4 KCCR 173 SN : (2001) 123 STC 607

Hon'ble Judges : M.F. Saldanha, J;D.V. Shylendra Kumar, J

Bench : Division Bench

Advocate : R.V. Prasad and K. Hema Kumar, for Vasan Associates, for the Appellant; B. Anand, A.G.A., for the Respondent

Final Decision : Allowed

Judgement

M.F. Saldanha, J.—This sales tax appeal assails the revisional order passed by the Additional Commissioner of Commercial Taxes, Zone-II, Bangalore dated July 31, 1997 whereby the authority in exercise of revisional powers has set aside the appellate order and has restored the original assessment order. We refrain from either stating the facts or getting into any discussion on merits, for the reason that a perusal of the impugned order indicates to us that beyond stating that the assessing authority was right in passing original order and the appellate authority was wrong in setting it aside the original order, the revisional authority has not indicated any grounds or any reasoning in support of its conclusions. Where revisional powers are exercised, it is very necessary that a proper speaking order has to be passed and that the conclusions arrived at in that order be supported by a process of logical reasoning and justification that would support the conclusions that have been arrived at and render them tenable. The absence of such a procedure, which the law envisages, being followed, by themselves would render the order non est as it is certainly not possible for any higher authority to be able to assess the reasoning behind the conclusions where nothing is stated. It is equally not permissible for the parties before this Court to contend that this Court must examine the material on merits and record a finding as to whether or not the revisional order is justifiable or not for the simple reason that this Court cannot be equated with the revisional authority. Where the order is a nullity on the face of it, we have no option except to set aside the order and direct the revisional authority to issue fresh notice to the appellants, consider the record and the submissions canvassed and pass an order that meets with the requirement of law. By way of implication, we need to reiterate the fact that since an appeal is provided to the High Court from the revisional order that it is absolutely incumbent on the part of the revisional authority to pass an appropriate speaking order from which it will be possible for the appellate authority, namely, this Court, to assess as to what was the material and what were the reasons that guided the revisional authority so as to exercise the revisional power or decline to exercise it. We are confident that the revisional authority will take note of our observations hereinafter. The impugned order is accordingly set aside. The appeal is allowed and the case is remanded to the revisional authority for fresh decision according to law. In the circumstances of the case, there shall be no order as to costs.

