(2014) 06 KL CK 0101

In the High Court Of Kerala

Case No : ST Rev. No. 14 of 2014

Spartek Ceramics (India) Ltd. APPELLANT

Vs

State of Kerala RESPONDENT

Date of Decision : 12-06-2014

Acts Referred:

Citation : (2014) 06 KL CK 0101

Hon'ble Judges : K.M. Joseph, J;A.K. Jayasankaran Nambiar, J

Bench : Division Bench

Advocate : Anil D. Nair, Sri R. Sreejith, Smt. C.S. Sulekha Beevi and Smt. Rosie Athulya Joseph, Advocate for the Appellant; S. Sudheesh Kumar, Sr. Government Pleader, Advocate for the Respondent

Judgement

K.M. Joseph, J.—As the S.T. Revisions involve a common issue, they were taken up for disposal by this common order.

2. We heard the learned counsel for the petitioner and the learned Government Pleader.

3. The petitioner suffered an assessment order and appeals were filed. The appeals were dismissed stating that the petitioner did not remit the admitted tax. Further appeals were filed before the Tribunal, which also proved unsuccessful. The Tribunal took a view that the appeals were rightly rejected by the first appellate authority and the contention of the petitioner, that in view of the proceedings pending before the BIFR it is not liable to make the deposit of admitted tax, is not acceptable as it is only a bar for recovery and payment of admitted tax is a mandatory condition. It is also brought to our notice that additional court fee stamp towards Kerala Legal Benefit Fund was also not filed. In short, the appellate Tribunal upheld the order of dismissal of the appeals on the basis that the mandatory deposits were not paid. The learned Government Pleader would point out that no revision will lie against such an order in view of the judgment of this Court in S.T. Rev. No. 26 of 2009.

4. The learned counsel for the petitioner would point out that in this case, appeals have not been ''rejected''; instead the appeals are ''dismissed'' and therefore, the judgment will not apply. The argument although attractive in the first blush, on a deeper scrutiny, we would think that the use of the word ''dismissed'' in place of ''rejection'' cannot be understood as being sufficient to distinguish the present case from the case which was considered by the Division Bench of this Court. The use of a wrong word cannot by itself make the appeal maintainable.

In such circumstances, all the S.T. Revision petitions are dismissed.

