(2007) 02 KAR CK 0022

In the Karnataka High Court

Case No : Sales Tax Revision Petition No. 29 of 2006

State of Karnataka APPELLANT

Vs

Manipal Press Limited, Manipal, Udupi RESPONDENT

Date of Decision : 15-02-2007

Acts Referred:

Central Sales Tax (Registration and Turnover) Rules, 1957 — Rule 12(1)
Central Sales Tax Act, 1956 — Section 8(1)

Citation : (2009) 67 KarLJ 567

Hon'ble Judges : Anand Byrareddy, J;R. Gururajan, J

Judgement

R. Gururajan, J.-State is before us aggrieved by the order of the Tribunal dated 4-10-2005 passed in STA No. 2286 of 2004 (Manipal Press Limited, Manipal, Udupi v State of Karnataka, 2007(62) Kar. L.J. 204 (Tri.) (DB)) reversed in the case on hand.

2. The respondent is a dealer registered under the provisions of the Karnataka Sales Tax Act, 1957 and the Central Sales Tax Act, 1956. The respondent is a Private Limited Company engaged in the business of printing and sale of printed materials. The Assessing Authority concluded the assessment for the year 2000-01 determining the tax liability of Rs. 47,32,825.97 levying tax under Section 8(2)(b) of the CST Act on inter-State sales amounting to Rs. 4,04,36,593/- as sales of printed materials not covered by "C" Form as far as the subject-matter of this revision petition is concerned. The respondent challenged the said order before the First Appellate Authority. The First Appellate Authority dismissed the appeal confirming the order passed by the Assessing Authority. Thereafter, the matter was taken before the Karnataka Appellate Tribunal and the Tribunal has chosen to pass the impugned order. This order is challenged by the State.

3. Heard Smt. Sujatha, learned Government Advocate for the State and Sri G.K.V. Murthy, learned Counsel for the assessee.

4. A perusal of the order of the Tribunal discloses that the Tribunal categorically

stated in paragraph 8 that the Assessing Authority has not provided any reasonable opportunity of hearing. The Tribunal also holds that there is serious lapse on the part of the Assessing Authority and the First Appellate Authority cannot treat the matter so lightly and an opportunity of being heard is to be given to a person who is likely to be affected before passing an order which will affect him and it is not sufficient if an opportunity of being heard is granted at the appellate stage. Having come to this categorical conclusion the Tribunal has chosen to consider the case on hand on merits.

5. Law is well-settled that in the case of inadequate opportunity or inadequate material, the Appellate Authority has to remand the matter to the original authority for fresh consideration of facts in accordance with law. In the case on hand, the Tribunal has come to a conclusion that the case suffers from the violation of rules of natural justice. If that is so the Tribunal ought to have remanded the matter. In the circumstances, we deem it proper to accept this appeal filed by the State. The order of the Assessing Authority and the First Appellate Court of the order of the Tribunal are set aside. The matter is remanded to the Assessing Authority for fresh consideration in accordance with law. The parties are directed to appear before the Assessing Authority on 15-3-2007 without waiting for any notice. The learned Government Advocate to inform the Assessing Authority with regard to the posting of the case. The Assessing Authority has to consider the matter without in any way being influenced by the earlier proceedings or the order passed by this Court. He has to complete the proceedings within six months. No opinion is expressed on the merits of the matter. Ordered accordingly. No costs.

Smt. Sujatha, learned Government Advocate is given four weeks time to file her memo of appearance.

