
(2011) 12 KL CK 0032
In the High Court Of Kerala
Case No : S.T. Revision No. 107 of 2011

State of Kerala

APPELLANT

Vs

Hotel Aracadia Regency

RESPONDENT

Date of Decision : 02-12-2011

Acts Referred:

Kerala General Sales Tax Act, 1963 — Section 7(1)(ii), 7(1)(ii)(a)

Citation : (2013) 57 VST 297

Hon'ble Judges : K. Vinod Chandran, J; C.N. Ramachandran Nair, J

Bench : Division Bench

Advocate : Bobby John, Government Pleader, for the Appellant; V.V. Georgekutty, for the Respondent

Judgement

C.N. Ramachandran Nair, J.—We have heard the Government Pleader for the petitioner and the counsel appearing for the respondent. The question raised is whether the Tribunal was justified in holding that the respondent was entitled to the compounding facility for payment of turnover tax on the sale of liquor initially granted, but later withdrawn. Admittedly, the respondent was granted compounding facility to pay turnover tax treating the turnover for payment of TOT at 180 per cent of the purchase turnover of liquor as provided u/s 7(1) (ii) (a) of the Kerala General Sales Tax Act. However, the assessing officer later noticed that the respondent had not completed three years of business prior to the year 2010-11, the years for which compounding was sought and so much so, they are not entitled for compounding facility. The Tribunal took the view that clause (a) of section 7(1) (ii) applies to the respondents even though they had not completed three years business in the bar prior to the year for which compounding is sought.

2. It is challenging this order of the Tribunal the State has filed this revision. After hearing both sides what we notice is that there is nothing to indicate in the section that three years" continuous business prior to the year for which compounding sought is mandatory for applying for compounding. In other words,

the view taken by the Tribunal that clause (b) of section 7(1) (ii) applies only in cases where the applicants have three years" continuous business prior to the year in which compounding is applied for, and that it is not a mandatory requirement for granting the facility. We do not think we should interfere with the order of the Tribunal because the interpretation placed by the Tribunal on the above section is a possible view, the benefit of which the dealer is entitled. We therefore dismiss STRV case filed by the State.