(1982) 03 KAR CK 0040

In the Karnataka High Court

Case No : Writ Petition No. 7799 of 1982

S.V. Patwardhan — APPELLANT

Vs

State of Karnataka — RESPONDENT

Date of Decision : 08-03-1982

Acts Referred:
Karnataka Sales Tax Act, 1957 — Section 25 A, 8 A, 8 A (1) (a), 8 A (3A)

Citation : (1984) 57 STC 10

Hon'ble Judges : M.N. Venkatachaliah, J

Bench : Single Bench

Advocate : B.V. Kategeri, for the Appellant; M.R. Vanaja, High Court Government Pleader, for the Respondent

Judgement

Venkatachaliah, J.—The matters arises under the Karnataka Sales Tax Act, 1957. In this petition, the petitioner challenges the notice dated 18th January, 1982, issued by the Assistant Commercial Tax Officer, 1st Circle, Bijapur seeking to rectify the assessment to sales tax earlier made and to bring to tax the purchase turnover in old gold and silver articles on the ground that after the introduction of section 8A(3-A) into the Act, by the Karnataka Sales Tax Amendment Act, 1981 (Karnataka Amendment Act No. 7 of 1981), the earlier notification dated 10th September, 1970, issued u/s 8A of the Act exemption the purchase turnover in old gold and silver articles subject to certain conditions stipulate therein, stood retrospectively cancelled with effect from 1st July, 1972, on which day the rate of tax on gold and silver articles was increased from 3 per cent to 3 1/2 per cent by the provisions of the Karnataka Sales Tax Amendment Act 5 of 1972.

2. It is not necessary to go into the contention raised by the petitioner that section 8A(3-A) is violative of article 19(1)(g) and article 300-A of the Constitution of India, as the matter admits of being disposed of on a short question. Section 8A(3-A) is attracted to and retrospectively cancels a notification issued u/s 8A(1)(a) of the Act. It is conceded by the respondents that the earlier notification dated 10th September, 1970, exempting the purchase

turnover of old gold and silver articles in the hands of manufactures subject to certain conditions is not a notification u/s 8A(1)(a) and that accordingly is not cancelled by virtue of section 8A(3-A). The submission of learned High Court Government Pleader on behalf of the respondents is placed on record.

3. Accordingly, this writ petition is allowed in part and notice dated 18th January, 1982, issued u/s 25A of the Act initiating proceedings for rectification is quashed.

However parties are left to bear their own costs.

4. Smt. Vanaja, learned High Court Government Pleader, is permitted to file her memo of appearance within three weeks from today.

