(1973) 07 KAR CK 0023

In the Karnataka High Court

Case No : S.T.R.P. No. 25 of 1972

The State of Mysore — APPELLANT

Vs

S.S. Dhundushi and Co. — RESPONDENT

Date of Decision : 19-07-1973

Acts Referred:

Mysore Sales Tax Act, 1957 — Section 18 (1), 18 A

Citation : (1973) 2 MysLJ 445 : (1975) 35 STC 411

Hon'ble Judges : Jagannatha Shetty, J;G.K. Govinda Bhat, J

Bench : Division Bench

Advocate : M.P. Chandrakantaraj Urs, High Court Government Pleader, for the Appellant; B.V. Katageri, for the Respondent

Judgement

Jagannatha Shetty, J.—The respondent assesses is a dealer under the Mysore Sales Tax Act. He is a general merchant and also a commission agent at Sirsi. At the time of making the assessment for the period 25th October, 1965, to 12th November, 1966, it was discovered that he had collected a sum of Rs. 9,801.63 purporting to be a tax on the sale of goods belonging to his principles. The assessing authority took action u/s 18-A of the Mysore Sales Tax Act, 1957, for contravention of section 18(1) of the Act and issued a notice proposing to levy a penalty of Rs. 14,700 u/s 18-A of the Act and after hearing the petitioner, levied a penalty of Rs. 10,000 by its order dated 2nd May, 1969. The said order was appealed before the Deputy Commissioner of Commercial Taxes, Dharwar. The appeal was allowed following the decision of this court in V. B. Patil v. Commercial Tax Officer [1970] 25 S.T.C. 449. The second appeal preferred by the department was dismissed by the Mysore Sales Tax Appellate Tribunal, Bangalore. The contention before the Tribunal was that the ratio of the decision in V. B. Patil''s case [1970] 25 S.T.C. 449 cannot be applied to this case in view of the amendment to section 18(1) of the Act, which came into force on 1st April, 1966. Same is the contention urged before us now.

2. We do not think that the amendment to the section has made any difference

in the position of law as laid down in V. B. Patil''s case [1970] 25 S.T.C. 449 . Further, a similar provision came up for consideration before the Supreme Court in State of Uttar Pradesh and Another Vs. Annapurna Biscuit Mfg. Company, , and Khanna, J., while considering the scope of section 29A of the U.P. Sales Tax Act (15 of 1948), which is in pari materia with section 18-A of the Mysore Sales Tax Act, said that such provision was beyond the legislative competence of the State under entry 54 of List II of the Seventh Schedule to the Constitution. In our opinion, the view taken by he Tribunal is correct. The revision petition is accordingly dismissed; but no costs.

3. Petition dismissed.

