(2007) 03 KAR CK 0034

In the Karnataka High Court

Case No : S.T. (Rect.) Nos. 96 to 99 of 2005, set aside

Titan Industries Limited, Bangalore — APPELLANT

Vs

State of Karnataka — RESPONDENT

Date of Decision : 15-03-2007

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 23(1)

Citation : (2009) 67 KarLJ 203

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

Judgement

Gururajan, J.-Assessee is before us aggrieved by the order passed by the Karnataka Appellate Tribunal, Bangalore in ST (Rect.) Nos. 96 to 99 of 2005, dated 29-11-2005.

2. Facts in brief are as under:

3. The Assessing Authority rejected the turnover returned by the petitioner in terms of an order dated 31-1-1999. The successful appeals were filed by the assessee. Matter was thereafter taken to the Tribunal. The Tribunal confirmed the order of the authorities.

4. Assessee also aggrieved by an order dated 31-7-2000 in similar circumstances filed S.T.R.P. No. 49 of 2001 on the file of this Court. This Court by a detailed order remanded the case for redecision by the Assessing Officer. In the light of an order passed in similar circumstances, assessee had chosen to file a rectification application in terms ST (Rect.) Nos. 97 to 99 of 2005. The Tribunal has chosen to reject the rectification application. It is in these circumstances, assessee is before us challenging the original order and the subsequent adverse order.

5. At our instance, learned Counsel for the Government accepts notice for the respondent.

6. Matter is heard for final disposal with the consent of the learned Counsel and perused the material on record.

7. From the material on record it is seen that the assessee has suffered an adverse order in STA Nos. 160 to 162 of 2000, thereafter he has chosen to file a rectification application in the light of an order of this Court in STRP No. 49 of 2001 in the case of the very assessee. The Tribunal while rejecting the rectification application has chosen to say that the order of this Court on which reliance is placed is an order of remand and in that view of the matter the Tribunal has chosen to refuse to consider the rectification application.

8. In the light of the order of this Court in STRP No. 49 of 2001, dated 21-6-2004, we are of the view that the Tribunal while rejecting the rectification application ought to have remanded the case to the Assessing Officer. That has not been done in the case on hand. In these circumstances, we find substance in the contention of the learned Counsel for the petitioner that the Tribunal has committed a legal error in not considering the rectification application particularly in the light of the order of this Court. In these circumstances, we deem it proper to modify the impugned order of the Tribunal dated 29-11-2005 by way of remand of the case to the Assessing Authority for reconsideration in the light of the order passed in STRP No. 49 of 2001, dated 21-6-2004. In the given circumstances, we are not inclined to answer the questions of law raised by the parties. Questions of law are left open.

9. Ordered accordingly. No costs. Smt. Sujatha, learned High Court Government Pleader is permitted to file memo of appearance within four weeks.