(2010) 04 KAR CK 0277

In the Karnataka High Court

Case No : Writ Petition No. 5533 of 2010

Vasavi Industries APPELLANT

Vs

State of Karnataka and Others RESPONDENT

Date of Decision : 20-04-2010

Acts Referred:

Citation : (2011) 44 VST 84

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : K. Krishna, for the Appellant; K.M. Shivayogiswamy, High Court Government Pleader, for the Respondent

Judgement

A.S. Bopanna, J.—The learned Government Advocate to accept notice for respondent Nos. 1 to 3 and file memo of appearance in four weeks. The petitioner is calling in question the order dated November 2, 2009 which is impugned at annexure G to the petition.

2. The learned counsel for the petitioner while assailing the said order would point out that the appellate authority has not taken all aspects into consideration inasmuch as C forms were also furnished. It is the further contention of the learned counsel for the petitioner that since in respect of the amount which has been assessed, there is an error apparent and in any case by way of rectification, it could have been corrected. However, merely because the petitioners have filed an application, the authority could not have rejected the appeal.

3. The learned Government Advocate would however point out that the petitioners instead of availing of the remedy of rectification, if they were so aggrieved, have filed the appeal as contemplated u/s 20(5) of the KST Act. The provision of law is very clear that beyond 180 days, the delay in any event cannot be condoned. Therefore, the authority was justified in dismissing the appeal.

4. Having heard the rival contentions, I have perused the order dated November

2, 2009. The appellate authority has referred to the contention put forth by the petitioners herein. Ultimately the appeal has been dismissed as being barred by limitation. With regard to that aspect of the matter, there could be no dispute that the authority in any event could not have condoned the delay of more than 180 days. It is therefore in that circumstance, I am of the view that the authority was justified. Though in appropriate and deserving cases the assessee can be permitted the remedy of rectification proceedings in such circumstance, in the instant case, the petitioner is not diligent, inasmuch as from the date of the said order, there is sufficient delay even in approaching this court in this petition. Therefore, for that reason also, I see no reason to entertain the petition or grant any other liberty. In that view, the petition stands disposed of. No order as to costs.

