(2010) 06 KAR CK 0048

In the Karnataka High Court

Case No : Writ Appeal No. 1974 of 2010

Vasavi Industries APPELLANT

Vs

State of Karnataka RESPONDENT

Date of Decision : 23-06-2010

Acts Referred:
Karnataka Sales Tax Act, 1957 — Section 20 (2)

Citation : (2010) ILR (Kar) 3417 : (2010) 4 KCCR 2625 : (2011) 44 VST 85

Hon'ble Judges : N.K. Patil, J;B.V. Nagarathna, J

Bench : Division Bench

Advocate : K. Krishna, for the Appellant; T.K. Vedamurthy, Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—This appeal is arising out of the order dated 20th April 2010 passed by the learned Single Judge in W.P. No. 5533/2010.

2. The undisputed facts of the case are, the appellant had filed an application before the Assessing Authority-second respondent on 13.11.2008 for production of Form No. C for the assessment year 2002-2003. The said application had come up for consideration before the Assessing Authority on 18.11.2008. The Assessing Authority has rejected the said request of the assessee and an endorsement has been issued to that effect vide Annexure-F dated 18.11.2008. Assailing the correctness of the said endorsement, appellant herein had filed the appeals before the Joint Commissioner of Commercial Taxes (Appeals), Davanagere Division, Davanagere-The First Appellate Authority. The said appeals had come up for consideration before the First Appellate Authority on 2nd November 2009. The First Appellate Authority, after hearing the counsel who represented the appellant and after evaluation of the original records available on file, has rejected the said appeals as barred by limitation by an order dated 2nd November 2009 vide Annexure-G. Assailing the correctness of the said order, the appellant had filed a Writ Petition before the learned Single Judge of this Court in

W.P. No. 5533/2010. The learned Single Judge has disposed of the said writ petition by an order dated 20th April 2010. Being aggrieved by the order passed by the learned Single Judge, the appellant felt necessitated to present this appeal.

3. We have heard the learned Counsel for the appellant and learned Government Pleader for respondents at considerable length of time.

4. After careful perusal of the order impugned passed by the learned Single Judge and other material available on file, we do not find any error of law, much less material irregularity committed by the learned Single Judge in disposing of the writ petition filed by the appellant. It is also not in dispute that there is an inordinate delay of 826 days in challenging the assessment order dated 24.7.2006 and further there is also an inordinate delay in filing the application dated 13.11.2008 seeking extension of time to produce Form-C for the assessment year 2002-2003. The First Appellate Authority, after evaluation of the oral and documentary evidence and other materials available on file, has rightly rejected both the appeals filed by the appellant as barred by limitation and the same has been confirmed by the learned Single Judge of this Court. It is significant to note that, the appellant is not vigilant in redressing his grievance within the prescribed limitation period. As envisaged u/s 20(2) of K.S.T. Act, the assessee is entitled to file the appeal within 30 days from the date of passing the assessment order. In the instant case, there is an inordinate delay of 826 days in questioning the correctness of the assessment order. When the jurisdictional authority has got no power to condone the delay, it has rightly considered and passed appropriate orders in consonance with the relevant provisions of the Act and Rules. Therefore, we are of the view that the Tribunal has rightly placed reliance on the judgment of this Court in the case of Poshak Textiles v. Commissioner of Commercial Taxes reported in (2007) 11 VST 572, wherein this Court has held that the delay beyond 180 days cannot be condoned by the Appellate Authority. Hence, we do not find any good grounds as such made out by the appellant to entertain the relief sought in this appeal and hence, we decline to entertain this appeal.

5. For the foregoing reasons, the appeal filed by the appellant is liable to be dismissed as devoid of merits and accordingly, it is dismissed.