(1973) 07 KAR CK 0007

In the Karnataka High Court

Case No : S.T.R.P. No. 11 of 1972

Veerendra Stores APPELLANT

Vs

The State of Mysore RESPONDENT

Date of Decision : 17-07-1973

Acts Referred:

Mysore Sales Tax Act, 1957 — Section 20 (1), 29

Citation : (1973) ILR (Kar) 1089 : (1973) 2 MysLJ 444 : (1973) 32 STC 596

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

Bench : Division Bench

Advocate : B.V. Katageri, for the Appellant; S.G. Doddakale Gowda, High Court Government Pleader, for the Respondent

Judgement

Govinda Bhat, C.J.—The petitioner is an assessee under the Mysore Sales Tax Act, 1957. His business premises was inspected on 27th September, 1969, by the Assistant Commissioner of Commercial Taxes (Intelligence), Bangalore. He discovered several irregularities which, in his opinion, amounted to an offence u/s 26 of the Act punishable u/s 29. Thereupon he issued a notice to the assessee dated 29th September, 1969, asking him to appear before him within seven days and show cause why penal action should not instituted for the offence committed and also giving the assessee an opportunity to compound the offence. This notice was served on one Shekarappa on behalf of the assessee on the same day who made an endorsement admitting the offence and offering to compound the offence by payment of composition fee which may be fixed by the department. The Assistant Commissioner accepted the offer made by the assessee and proposed the compounding fee of Rs. 1,000. The assessee paid the composition fee of Rs. 1,000 as per his letter dated 29th September, 1969, and that was signed by one Shekarappa on behalf of the assessee. Thus the offence committed by the assessee was compounded and further proceedings were dropped as per the order passed by the Assistant Commissioner of Commercial Taxes (Intelligence), Bangalore, dated 29th September, 1969. Against the said order dated 29th September, 1969, the assessee preferred an appeal before the

Deputy Commissioner of Commercial Taxes, Gulbarga Division, Bellary, who, by his order dated 26th November, 1969, rejected the same on the ground that the appeal was not maintainable. Thereafter the assessee took up the matter in appeal before the Tribunal, who also rejected the same on the ground that it was not maintainable.

2. In this revision petition the assessee has challenged the decision of the Tribunal and the contention urged is that the order dated 29th September, 1969, is appealable falling u/s 20(1) of the Act. It is unnecessary for the purposes of this case to determine whether an order fixing the compounding fee is appealable or not. What was done by the order dated 29th September, 1969, was to drop the proceedings in view of the fact that the assessee agreed to compound the offence and paid the compounding fee. By the dropping of the proceedings, the assessee cannot be said to be a person aggrieved. Therefore, the authorities below were right in the view they have taken that the order dated 29th September, 1969, was not appealable. Accordingly, this S.T.R.P. is dismissed, but without costs.

3. Petition dismissed.