(2005) 09 KAR CK 0056

In the Karnataka High Court

Case No : Writ Petition No. 22040 of 2005

Wipro Technologies APPELLANT

Vs

State of Karnataka and Another RESPONDENT

Date of Decision : 23-09-2005

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Karnataka Sales Tax Act, 1957 — Section 22 (5)

Citation : (2007) 7 VST 246

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : P.M. Vasudev and Co, for the Appellant; Niloufer Akbar, AGA, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—Writ petition is by a dealer under the provisions of the Karnataka Sales Tax Act, 1957 (for short, "the Act") whose second appeal is pending before the Karnataka Appellate Tribunal.

2. It appears that the Tribunal, during the pendency of the appeal, had granted certain interim orders which enured to the benefit of the petitioner. But, unfortunately for the petitioner, such interim orders having ceased in terms of the operation of provisions of second proviso to Sub-section (5) of Section 22 of the Act which read as under:

Provided further that the Appellate Tribunal shall dispose of such appeal within a period of one hundred eighty days from the date of the order staying proceedings of recovery of one half of tax or other amount and, if such appeal is not so disposed of within the period specified, the order of stay shall stand vacated after the said period and the Appellate Tribunal shall not make any further order staying proceedings of recovery of the said tax or other amount.

3. The present writ petition was filed by the dealer apprehending that in view of

such developments, the respondents may resort to recovery proceedings.

4. Submission of Sri Vasudev, learned Counsel for the petitioner, is that the petitioner has already deposited 75 per cent of the disputed amount ; that even in respect of the balance 25 per cent, the petitioner has furnished security to the satisfaction of the respondents ; that in such a situation, even during the pendency of the petitioner''s appeal before the Tribunal, if the authorities should resort to recovery of the balance 25 per cent also, that really puts the petitioner into great difficulty.

5. It is also the submission of learned Counsel for the petitioner that the Tribunal itself may be directed to dispose of the appeals expeditiously and during the interregnum, the respondents directed not to initiate recovery proceedings.

6. Learned Counsel also brings to my notice certain orders passed in similar matters by this court and therefore prays for similar directions.

7. In the first place, I am not impressed that the matter calls for interference in the exercise of writ jurisdiction under Articles 226/227 of the Constitution of India. If the development is because of the operation of law and not because of any contribution either by the Tribunal or by the respondents, there is no occasion for this court to pass any order either contrary to such statutory provisions or which can in any way detract from the statutory provisions. Any order contrary will, in fact, achieve quite the opposite to what the law intended to achieve through the amendments to the existing law and by inserting such provisions of law which have brought about the present situation.

8. In such circumstances, I do not find it proper to pass any order either main or interim, which can in any way detract from the efficacy of the statutory provisions.

9. Likewise, I do not find any occasion to issue mandamus to the Tribunal for expeditious disposal as the position before the Tribunal is not known, particularly with regard to the number of cases pending, what is the present position, etc. No occasion arises for issuing any writ in the nature of mandamus as prayed for.

10. Accordingly, writ petition is dismissed.

