V. Ramachandra Bhat Vs. the State of Mysore

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Court : Karnataka

Decided On : Dec-24-1969

Reported in : [1970]25STC370(Kar)

Judge : B. Venkataswami and ;G.K. Govinda Bhat, JJ.

Appeal No. : S.T.R.P. No. 30 of 1969 against the order dated 25th April, 1969

Appellant : V. Ramachandra Bhat

Respondent : The State of Mysore

Advocate for Def. : S.R. Rajasekhara Murthy, Government Pleader

Advocate for Pet/Ap. : K. Srinivasan, Adv.

Judgement :
ORDER

Venkataswami, J.

1. The petitioner is the proprietor of a hotel by name 'Ashok Hotel' in Hubli town. With regard to the assessment year 1966-67, he returned the sales turnover of Rs. 1,56,704. The Commercial Tax Officer did not accept the turnover on various grounds. He rejected that accounts in this regard on six grounds enumerated in the assessment order, and then made an assessment to the best of judgment determining the turnover at Rs. 2,20,000. On appeal, the Deputy Commissioner

reduced it to Rs. 1,72,374. What the Deputy Commissioner did was that he added 10 per cent. to the sales turnover returned. On appeal, the Tribunal affirmed the order of the sales Deputy Commissioner.

2. It is clear from the order of the Commercial Tax Officer that all sales were supported by vouchers. But the reasons given by him to reject those accounts regarding sales were mostly based on the accounts relating to his purchases, to wit, that sizeable purchases were not supported by vouchers and that the sales fell far below 1 1/2 times of the purchase turnover, which is the working rule following in the cases of assessments of such establishments. He has further opined that in such popular and big boarding and lodging houses, it could not be believed that they were serving only hundred meals per session. He was also of the opinion that the margin of profit was very low and it was shown to be only 18 per cent. There is also a reference regarding the passengers from Mangalore to Bombay by road taking their meals in the hotel. It is clear from these reasons that the assessing authority has depended mostly on the working rule of 1 1/2 times to the purchase turnover in order to reject the accounts relating to the sales turnover and make a best of judgment assessment. Once the accounts regarding sales turnover are accepted by the authority, it is not open to them to reject the same on the ground that it does not satisfy the requirement of the working rule of 1 1/2 times of the purchase turnover and that sizeable purchases are not supported by vouchers : (see P. Narayanappa v. The State of Mysore ([1962] 13 S.T.C. 993)).

3. It is clear form the above decision that once the accounts relating to sales turnover are accepted as correct and supported by vouchers, it is not open to an authority to reject the accounts unless he finds that those accounts are defective in one or more ascertained particulars, such as, certain sales being not vouched for and noted in the accounts. In other words, once such accounts are accepted, it is not open to the authority to reject them on the ground that certain purchases were not supported by vouchers and that the quantum of sales fell below the test prescribed by the working rule mentioned above.

4. For the above reasons, the authorities were not justified in rejecting the sales turnover returned by the assessee. We, therefore, set aside the order of

assessment made against the petitioner and direct the Commercial Tax Officer concerned to re-compute the tax payable by the assessee on the basis of the sales turnover.

5. In the circumstances of the case, the petitioner is entitled to the costs. Advocate's fee Rs. 1

6. Petition allowed.