

Timber Centre Vs. Additional Commissioner of Commercial Taxes

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Court : Karnataka

Decided On : Mar-27-2001

Reported in : [2001]124STC49(Kar)

Judge : M.F. Saldanha and ;R. Gururajan, JJ.

Acts : [Karnataka Sales Tax Act, 1957](#) - Sections 22A; Karnataka Sales Tax Rules, 1957 - Rule 23B(1A)

Appeal No. : S.T.A. No. 98 of 1996

Appellant : Timber Centre

Respondent : Additional Commissioner of Commercial Taxes

Advocate for Def. : B. Anand, AGA

Advocate for Pet/Ap. : S.K. Nahar, Adv.

Disposition : Appeal allowed

Judgement :

M.F. Saldanha, J.

1. We have heard the appellant's learned advocate and the learned Government Advocate on merits. The controversy involved in this appeal again centers around the question as to whether the appellant was obliged to have carried form No. 39

along with the cut rose wood pieces that were found in the transport at the time when the goods were intercepted. The original authority imposed a heavy penalty of Rs. 59,701 on the appellant principally on this ground but also taking note of the fact that there was no proper mention of the relevant Karnataka sales tax numbers in the job-work documents that were produced. The appellant had filed an appeal and the appellate authority reduced the penalty to Rs. 2,000 principally because the authority after examination of the record accepted the appellant's contention which was again based on documents that the wood had been purchased from the Forest Department on which the appellants had paid the relevant and requisite sales tax and that it was these very logs that had been sent to the saw mill for being cut into pieces. The authority having been satisfied from the documents about the identity of the goods and the genuineness of the appellant's contention that there was no sale involved but that it was only a processing job, reduced the penalty to Rs. 2,000 only upholding the minor breach relating to the non-mention of the Karnataka sales tax numbers. However, the revisional authority and that too after a lapse of four years, set aside the appellate order and restored the original penalty order and it is against this last contention that the present appeal has been preferred.

2. The appellant's learned counsel has demonstrated to us that this is one of the few cases in which the appellate authority's order reflects a very careful and thorough consideration of the records and that the appellate authority has very correctly recorded the findings that the appellants were unjustifiably punished as far as the main charge is concerned. He has also submitted that this was a proceeding in which if the revisional authority desired to set aside the appellate order that justifiable grounds and material ought to have been set out which has not been done and that consequently the interference was thoroughly unjustified.

3. The learned Government Advocate submitted that the authorities are required to act on the safe side, that it is not desirable for them to accept the contention such as those taken up in the present case whereby the parties plead that the goods had only been processed and it is his submission that the general requirement of all cases, viz., that the goods be accompanied by supportive documents would hold good even in the present case. He submits that admittedly form No. 39 was

not forthcoming and that therefore the restoration of the penalty order is fully justified. We need to draw a distinction as far as the present case is concerned between the generality of cases and the few wherein the defence is fully borne out by the documents produced. There is no doubt about the fact that the appellate authority has carefully scrutinised the documents produced which do establish the appellant's case, namely, that it was their own material which had been cut into pieces and was being retransmitted to his premises. In the special facts and circumstances, therefore, the appellant is on sound footing when he points out that there was no requirement of form No. 39 on the facts of the present case. We also uphold the second contention that has been put forward on the appellant's behalf, namely, that where a revisional authority interferes with a well-considered order and an order wherein the findings appear to be fully justified that there must be very strong, valid and cogent grounds, the reasoning set out and there should also be supportive material before the authority's interference is warranted. None of these ingredients are satisfied, the revisional order is a cryptic order which is totally bereft of any of these considerations. Under the circumstances the revisional order is set aside. The appeal succeeds. The appellate order is restored. If the appellants have been required to pay the original penalty amount then they shall be entitled to pro rata refund.

4. The appeal succeeds and stands disposed off. No order as to costs.

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