

Munibyarappa Vs. Cit

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Court : Karnataka

Decided On : Apr-09-2001

Reported in : (2001)168CTR(Kar)640

Appeal No. : WT Appeal Nos. 1 to 17 of 2001 9 April 2001 A.Y. 1978-79 to 1986-87

Appellant : Munibyarappa

Respondent : Cit

Advocate for Pet/Ap. : B. Bhavani Shankar Rao, *for the Assessee* E.R. Indra kumar, *for the Revenue*

Judgement :

M.F. Saldanha, J.

In these group of appeals, after hearing the appellants learned counsel for sometime we had issued notice to the learned standing counsel who represents the department. On that occasion on 29-3-2001, we had passed a speaking order which is reproduced below :

'We have heard the appellants learned counsel. He has inter alia, raised a serious grievance with regard to the manner in which the Tribunal has disposed of these cases. Insofar as, it is his contention that where legal issues of some consequence

are canvassed and this is done on the basis of reported judgments, that it is not permissible for any forum to summarily disregard everything that has been argued. Learned counsels submission is that this creates a serious handicap for both the parties namely, the assessee and the department, insofar as whoever is aggrieved, will be faced with a difficulty when the case goes to the higher forum, if there is not even a reference to what was argued before the Tribunal. We have not referred to the two salient points that fall for determination in these group of appeals. We have directed the appellants learned counsel to give notice and learned advocate Sri E.R. Indra kumar, the standing counsel for the department, on our directions to take notice for the department. A copy of the proceedings to be handed over to him. Since we have heard the appeals for sometime, we direct the office to re-list the same again on Monday i.e., on 2-4-2001, because in our view, these group of appeals require to be disposed of with certain directions.

To be relisted for this purpose on 2-4-2001.'

2. Today, the learned standing counsel Mr. E.R. Indra kumar submitted that he is in a position to defend the orders on merits, but we have declined to go into that aspect for only one reason, namely, that we have pointed out to the learned counsel that we do not approve of the quality of order that has been passed by the Tribunal and the cavalier manner in which the Tribunal has glossed over important issues such as matters concerning the 9 Supreme Court judgments that were cited, in a one sentence statement that these judgments are distinguishable. Even assuming that the judgments are either not applicable or distinguishable it is a well-defined procedure that applies to all judicial forums that it is essential to record which the judgments in question are or a brief summary of the contentions raised and to record the findings thereon. It is not permissible to merely brush aside important legal issues or to disregard them as it will become impossible for the next higher authority to be able to decipher as to what is the ground on which the Tribunal rejected a particular contention. We have further brought it to the notice of the learned counsel that such a wrong practice is being followed by the Tribunal repeatedly and that is an additional reason why we insist on corrective action.

3. Without saying a single word with regard to the merits of the case we set aside the impugned orders and remand the proceedings to the Tribunal with a direction that fresh notice be issued to the appellants, that they be heard and that orders on merits as required by law be passed.

4. The appeals accordingly succeed to this extent and stand disposed of. No order as to costs.

5. The learned GA who represents the respondent-department to file his memo of appearance in all the appeals within two weeks.

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