



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF MARCH, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

SALES TAX APPEAL NO. 1 OF 2024

BETWEEN:

M/S YELLALINGA ELECTRICALS
HOUSE NO 19-1-270/A 83,
BHAVANI COLONY, SHIVNAGAR SOUTH,
BIDAR 585 401.
REPRESENTED BY PROPRIETOR,
MR BASAVANAPPA BIRADAR
S/O SRI BIRADAR SHIVRAJ,
AGED ABOUT 59 YEARS.

...APPELLANT

(BY SRI. SATHYANARAYANA T. R.,ADVOCATE)

AND:

THE ADDITIONAL COMMISSIONER OF COMMERCIAL TAXES,
ZONE 1, KALIDASA ROAD,
VANIJYA THERIGE KARYALAYA, GANDHINAGARA,
BENGALURU 560 047.

...RESPONDENT

(BY SRI.ADITYA VIKRAM BHAT.,AGA)

THIS STA FILED UNDER SECTION 66(1) OF KARNATAKA
VALUE ADDED TAX ACT 2003 AGAINST THE ORDER DATED
28.03.2024 PASSED IN ORDER No.CAS ORDER NO.346440611
AD SMR ON THE FILE OF THE ADDITIONAL COMMISSIONER OF
COMMERCIAL TAXES, ZONE-1, BENGALURU. SETTING ASIDE
THE REASSESSMENT ORDER PASSED ON 5.03.2021 PASSED
BY THE ASSISTANT COMMISSIONER OF COMMERCIAL TAXES
(AUDIT), BIDAR, FOR THE TAX PERIOD FOR 2017-18.





THIS STA, COMING ON FOR ADMISSION THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
AND
HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

ORAL JUDGEMENT

(PER: HON'BLE MR JUSTICE KRISHNA S DIXIT)

This appeal by the assessee is filed under Section 66(1) of the Karnataka Value Added Tax Act, 2003 for calling in question the order dated 28.03.2024 passed by the respondent herein.

2. The appeal is structured on the following 'Substantial Questions of Law', that are incoherently framed:

"Question No.1: Whether the then consultant issued his personal cheque to the extent of refund wrongly availed to the officer of LVO-540?

Question No.2 Whether an order passed by predecessor can be altered in the order passed by the Successor in a different direction?

Question No.3: Whether proceedings instituted pursuant to a notice under section 64(1) of the KVAT issued in contravention of Rule 154 of the KVAT Rules 2005 can be sustained?



Question No.4: *Validity of consideration of total turnovers as per erroneous monthly returns filed in form VAT-100 in the absence of the books of account ACCT Bidar?*

Question No.5: *Validity of disallowance of deduction claimed towards labour & like charges in the absence of books of account & allowing the standard deduction of 30% as per rule 3(2)(m) of the KVAT rules 2005 by the respondent and not allowing exemption towards deemed VAT collected amount & gross profit earned towards labour & like charge expenses incurred by the appellant?*

Question No.6: *Validity of dis-allowance of the deduction claimed towards input tax credit for non-submission of the relevant documentary evidence and the levy of VAT @ 14-.5% along with the consequential interest and penalty on the balance liability determined by the respondent?*

Question No.7: *Validity of demanding back the refund claimed amount along with the consequential interest and penalty based on invalied form VAT-156 filed by the then tax consultant for the tax period June- 17 by the respondent?"*

3. Learned counsel appearing for the appellant- assessee submits and learned AGA appearing for the respondent-Revenue disputes that the questions framed as above are questions of law and therefore, appeal needs to be heard on merits. It is submitted on behalf of the



assessee that the impugned order has been passed in gross violation of principles of natural justice inasmuch as he had no opportunity to put forth his version effectively; the respondent-authority has approached the matter with prejudicial mind and has not duly considered evidentiary material produced by the assessee; his Tax Consultant had declared the inflated turn overs with intent to claim refund by submitting fake Form VAT 156; he had lodged a police complaint against the said Tax Consultant who is now no more.

4. Learned AGA appearing for the Revenue in his usual vehemence opposes the appeal contending that the respondent-authority having considered all aspects of the matter and after giving full opportunity of participation to the assessee, has made the impugned order by employing his accumulated expertise in the domain; despite giving opportunity, the assessee did not produce his books of accounts or any relevant evidentiary material at all. Lastly, he adds that, the Tax Consultant is and acts as an Agent of



the assessee and if he had put forth the inflated figures, that is no ground for granting relief in the appeal.

5. Having heard the learned counsel appearing for the parties and having perused the Appeal Papers, we decline indulgence in the matter broadly agreeing with the submission of learned AGA. Firstly, the questions of law are haphazardly framed and they lack coherence both in terms of law and language. Secondly, these questions are not of law inasmuch as, to answer them, turning the pages of statute book would not come to aid. Despite taking us through the Paper Book of the appeal, we are not shown which finding in the impugned order is perverse that is to say contrary to evidence borne out by record or which of the observations in the impugned order are made without evidentiary basis.

6. The vehement submission of the learned counsel appearing for the assessee that his client was not given a reasonable opportunity to produce relevant evidentiary material such as books of accounts is liable to be rejected



inasmuch as, despite granting opportunity, the assessee failed to avail the same. The respondent at Para 30 of the impugned order has observed as under:

"30. In support of the contentions urged, the DAR of the appellant even at appeal stage has not submitted any books of account related to the actual expenses incurred towards labour & like charges for the tax periods of the financial years 2016-17 & 2017-18 (up to June-17). The DAR present has submitted copy of FIR filed before the jurisdictional police station related to loss of books of account by the appellant related to the financial years 2016-17 & 2017-18 (up to June- 17 & requested to allow time to prepare & submit the relevant vouchers based on payments withdrawn from bank & paid towards labour & like charges as per bank statements. However, has not submitted any books of account even at appeal stage."

7. The vehement submission of learned counsel for the appellant that for the fraud committed by the Tax Consultant, the assessee should not be made to suffer is too broad a proposition to accept. Ordinarily, as rightly submitted by learned AGA, Tax Consultant is an Agent of the assessee, notwithstanding the professional elements involved in the Act. It is not that the assessee had not put his signatures to the Returns and Records filed before the



Revenue, in a normative way. It is also not that the Tax Consultant would have been benefited by the inflated figures stated in the Return; obviously, it was the assessee who was the beneficiary. Claiming higher contract amount by inflated figures and thereafter complaining that the Tax authorities have premised their decision on such figures, virtually amounts to defrauding the State, in two-ways. Such an assessee does not deserve any relief at the hands of this Court.

8. The last contention of the appellant's counsel that the respondent had approached the matter with prejudicial mind is too farfetched a submission. Why a high functionary of the State who acts quasi-judicially in deciding the tax liability of the assessee should be presumed to be prejudicial, remains unanswered. Such a contention cannot be countenanced without laying foundational basis. A perusal of the impugned order in the light of other material accompanying the appeal memo leaves no manner of doubt that the respondent has judiciously considered all



contentions of the assessee as reflected in the impugned order.

In the above circumstances, this appeal being devoid of merits is liable to be dismissed and accordingly it is, costs having been reluctantly made easy.

Sd/-
(KRISHNA S DIXIT)
JUDGE

Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE

CBC/SK
List No.: 1 Sl No.: 20