

**IN THE HIGH COURT OF KARNATAKA**

**CIRCUIT BENCH AT GULBARGA**

**DATED THIS THE 8<sup>TH</sup> DAY OF FEBRUARY 2013**

**PRESENT**

**THE HON'BLE MR. JUSTICE N.KUMAR**

**AND**

**THE HON'BLE MR. JUSTICE H.G.RAMESH**

**S.T.A. No.702/2011**

**BETWEEN:**

M/S. AMBIKA COMMERCIAL CORNER  
DEVIGIRI LINE  
BIJAPUR

... APPELLANT

(BY SRI L.B.BANNIKOPPA, ADV.)

**AND:**

ADDL. COMMISSIONER OF COMMERCIAL  
TAXES, ZONE-I,  
VANIJYA THERIGE  
KARYALAYA, BANGALORE

...RESPONDENT

THIS STA IS FILED U/S. 66(1) OF THE KARNATAKA VALUE ADDED TAX ACT, 2003, AGAINST THE ORDER DATED 04.12.2010 PASSED IN ZAC-1/BGM/SMR-16/10-11 ON THE FILE OF THE COMMISSIONER OF COMMERCIAL TAXES ZONE-1, BANGALORE, SETTING ASIDE THE ORDER OF THE JCCT IN APPEAL NO. JC/AP/BG/KVAT-194/2006-07 DATED 18.04.2007 AND THE ORDER OF THE ACCT IN NO: ACCT/AUDIT/BJP/29520304597/05-06 DATED 19.12.2006 AND RESTORING THE ASSESSMENT ORDER.

THIS STA COMING ON FOR HEARING, THIS DAY, **N.KUMAR J.**, DELIVERED THE FOLLOWING:



**J U D G M E N T**

This appeal is preferred against the order passed by the Additional Commissioner of Commercial Taxes under Section 64(1) of the Karnataka Value Added Tax Act, 2003 (hereinafter referred to as 'the KVAT Act' for short) wherein the Additional Commissioner has set aside the order passed by the Appellate Authority and restored the assessment order.

2. The assessee is a dealer in cement, water proof compound and repair bond mixture. The verification of books of accounts showed that the assessee was effecting purchases of cement, white cement, water proof compound and repair bond mixture from local registered dealers and sell them locally. The assessee has filed a list of purchases indicating bill number, date, name of sellers, TIN, net amount and VAT charged. However, the assessee has not charged and collected VAT in tax invoices but offered VAT by bifurcating tax element from gross sales. The assessee has not charged and collected VAT in the tax invoices on the plea that he has opted for



