

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 24<sup>TH</sup> DAY OF APRIL 2014

PRESENT

THE HON'BLE MR.JUSTICE DILIP B.BHOSALE

AND

THE HON'BLE MR. JUSTICE B.MANOHAR

STRP NO.216/2011 & STRP.NOS.150-151/2012

BETWEEN:

State of Karnataka,

By the Secretary

Department of Finance,

Vidhaya Soudha,

Bangalore - 560 001.

...Petitioner

(By Sri.T.K.Vedamurthy, HCGP)

AND:

M/s.Shilpi Wire Rope (P) Ltd.,

No.22, A & E, KIADB Industrial Area,

Attibele, Bangalore - 562 107.

....Respondent

(Respondent served and unrepresented)

These STRP are filed under Sec.23(1) of KST Act, against the Judgment dated 17.08.2010 passed in STA.No.92 to 94/2006 on the file of the Karnataka Appellate Tribunal, Bangalore, allowing the appeal filed u/Sec.22(1) 1957 of KST Act.

E (343)

ACCT (LA-2)  
27/05

These STRPs coming on for Hearing this day, **Dilip B Bhosale J.**, made the following:

**P.C:**

These sales tax revision petitions under Section 23(1) of the Karnataka Sale Tax Act, 1957 (for short '**the Act**') are preferred against the order dated 17<sup>th</sup> August 2010 passed by the Karnataka Appellate Tribunal, at Bangalore (for short '**the Tribunal**') in STA Nos.92-94/2006, whereby the appeals were allowed and the order of penalty levied under Section 28-A(4) of the Act was set aside with a further direction to the Check Post Officer to refund to the respondent-assessee the penalty collected from them.

1.1 The appeals before the Tribunal were directed against the order dated 28<sup>th</sup> November 2005 passed by the Joint Commissioner of Commercial Tax (Appeals) (for short '**the First Appellate Authority**') in KST.AP. Nos.253-255/2005-06 under Section 28-A(4) of the Act by the respondent-assessee. The Appellate Authority by

this order disposed of the appeals with certain modification.

2. In these revision petitions, the petitioner has formulated the following questions of law for our consideration, which read thus:

*1. Whether on the facts and in the circumstances of the case and in law,, the Karnataka Appellate Tribunal is right in allowing the Appeals and setting aside the penalty order levied under Section 28-A(4) of the Act by the Check Post Officer?*

*2. Whether on the facts and in the circumstances of the case and in law, the Karnataka Appellate Tribunal is justified in relying on the decision of N.Subramanya V/S Commissioner of Commercial Taxes, Bangalore in 1997 (43) KLJ 391?*

3. The respondent-assessee is a Private Limited Company and a registered dealer under the provisions of the Act. It is engaged in the business of manufacture and sale of electrical wires. The assessee had purchased iron and steel from M/s.Rastriya Ispat Nigam Limited, Vishakapatnam which were to be delivered in

the State of Karnataka in three goods vehicles bearing Nos.CAW-331, MEZ-6219, and MYA-9090. The goods, which were to be delivered in the State of Karnataka at the premises of the assessee in three vehicles, were valued at Rs.1,82,012/-, Rs.2,06,094/- and Rs.2,05,347/-. Though they were to be delivered at the premises of the assessee, in fact they were delivered at the premises of one M/s.Miki Steel Works Private Limited, Attibele. While the goods were being unloaded, they were intercepted by the Mobile Check Post Officer. When the Officer demanded necessary documents from the drivers of the vehicles, they produced invoices, all dated 30-11-2002 of M/s.Rastriya Ispat Nigam Limited, Vishakapatnam Steel Plant raised in favour of the assessee i.e. M/s.Shilpi Wire Rope Private Limited with the address of the assessee at Bangalore. When the Officer verified those documents, he found that they were not valid documents for transportation of goods from the premises of the assessee M/s.Shilpi Wire Rope

