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Kamath → Kamath

(R)

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF AUGUST, 2015

PRESENT

THE HON'BLE MR. JUSTICE VINEET SARAN

AND

THE HON'BLE MR. JUSTICE B. MANOHAR

STA NO.25/2012 & STA NO.129/2012

BETWEEN

M/S.SHREE SHEELE PVT. LTD.
NO.8, 1ST CROSS, SUDHAMANAGAR,
BANGALORE-560 027.

(BY SRI K.J.KAMATH, ADV.,)

... APPELLANT

AND

THE ADDITIONAL COMMISSIONER
OF COMMERCIAL TAXES, ZONE-II,
GANDHINAGAR, BANGALORE-560 009.

...RESPONDENT

(BY SRI T.K.VEDAMURTHY, HCGP)

THESE STAs. ARE FILED UNDER SEC.24(1) OF THE ACT AGAINST THE ORDER DATED. 13.12.2011 PASSED IN NO.SMR/KST/DVO-II & IV/CR-111/2009-10 ON THE FILE OF THE ADDL. COMMISSIONER OF COMMERCIAL TAXES, ZONE-II, BANGALORE, SETTING ASIDE THE ORDER PASSED BY THE FAA VIDE KST.AP.585 & 586/05-06 DATED 18.3.2006 AND ACCORDINGLY DIRECTING THE AA TO ISSUE A REVISED DEMAND NOTICE.

THESE STAs. COMING ON FOR FINAL HEARING THIS DAY, VINEET SARAN J. DELIVERED THE FOLLOWING:



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JUDGMENT

We have heard Sri K.J.Kamath, learned counsel for the appellant as well as learned HCGP for the respondent and perused the record.

2. This is a classic case of the officer ante-dating an order of revision only in order to overcome the limitation provided under Section 22A of the Karnataka Sales Tax Act, 1957 (for short 'the KST Act'). Before going to merits of the case, we would like to state a few facts with regard to the passing of the revisional order, which is impugned in these appeals.

3. Penalty was imposed on the assessee by the Assessing Officer under Section 5A(3)(i) of the KST Act by an order dated 26.09.2005. The appellant-assessee challenged the said order in appeal and the Joint Commissioner of Commercial Taxes, vide its order dated 18.03.2006, allowed the appeal and set aside the penalty by a reasoned order passed under Section 20(5) of the KST Act. The respondent-Additional Commissioner of Commercial Taxes thereafter issued notice to the appellant-



assessee dated 02.09.2009 (served on 19.09.2009) which was for revising the order dated 18.03.2006 passed under Section 22A of the KST Act. A reply to the said notice was filed by the appellant on 20.03.2010 which was received in the office of the respondent on 08.04.2010. The limitation for passing an order on a suo moto revision under Section 22A of the KST Act is provided under Sub-section (4) of the said section, which is four years from the passing of the order sought to be revised. Such position is not disputed by the learned counsel for the parties.

4. What is noteworthy here is that the reply dated 20.03.2010 (received in the office of the respondent on 08.04.2010) has been referred to in the impugned order of the Additional Commissioner of Commercial Taxes dated 10.02.2010. The limitation of four year period from 18.03.2006 (which was the date of the order sought to be revised) was to expire on 17.03.2010. The copy of the order was received by the appellant on 21.09.2011. Noticing these facts, this Court had passed an order dated 16.10.2014, which is reproduced below:



