Pavithra Leathers Vs Commercial Tax Officer, Ranipet (SIPCOT) and Others

Tax Case (Revision) No. 1733 of 2008

Court: Madras High Court

Date of Decision: Sept. 21, 2012

Citation: (2013) 63 VST 39

Hon'ble Judges: K. Ravichandrabaabu, J; Chitra Venkataraman, J

Bench: Division Bench

Advocate: K. Kumaresan, for the Appellant; V. Haribabu, Additional Government Pleader, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Chitra Venkataraman, J.
The assesses is on revision as against the order of the Sales Tax Appellate Tribunal (Main Bench), Chennai dated

December 24, 2003 passed in T. A. No. 88 of 2002 raising the following questions of law:--

(1) Whether, in the facts and circumstances of the case, the first respondent is right in law in serving by affixture, without satisfying that other modes

of service were not practicable? and

(2) Whether, in the facts and circumstances of the case, the first respondent is right in law in ordering service by affixture, without exhausting other

modes of service contemplated under rule 52(1)(a), (b) and (c), in view of the decision in Kunwar Industries and Another Vs. The Sales Tax

Officer,

It is seen from the order of the Sales Tax Appellate Tribunal that the assessing officer made attempts to serve the summons and pre-assessment

notice and the assessment order on the assessee. Evidently, the notice of assessment was served on August 21, 1996. The notice was served

followed by summons in form XII on August 22, 1996 for production of accounts followed by on January 10, 1997, February 11, 1997, July 9,

1997. None of them was answered by the assessee. Ultimately, the best of judgment assessment was made and notice was issued to the assessee,

even for which the assessee had not responded. The said notice sent to the assessee''s place of business was returned unserved with the postal

endorsement ""addressee left without instruction hence returned to sender"". Once again, the notice proposing pre-assessment was issued on July

19, 1999, which was sent to the last known address of the partners of the firm, which were evidently received by the partners except one

Jagadeeswaran. Again reminder notice was sent to the partners, which were returned unserved except one R. Kumar, one of the partners, who

received the notice. Left with no other option, the assessing officer confirmed the notice by order dated February 29, 2000. The final assessment

proceedings dated December 29, 2000 was sent to the partners to the last known address. Apart from this, a copy of the order was sent to the

official last known address of the business.

2. The assessee contended that there is no appropriate initiation of the assessment proceedings. The Tribunal rejected the same holding that the

assessing officer has passed the order after following the modes of service as referred to in rule 52 of the Tamil Nadu General Sales Tax Rules. In

the circumstances, the Tribunal rejected the. appeal filed by the assessee based on the date of service of the certified copy of the assessment

proceedings issued to the assessee that the delay of 560 days could not be condoned. Aggrieved by this, the present revision is filed by the

assessee.

3. As seen in preceding paragraphs, the assessee was fully conscious of the proceedings taken and the service effected by the assessing officer

duly following the Rules. In such circumstances, the assessee after getting certified copy of the assessment proceedings, per se, could not claim the

appeal as one filed in time. Going by the service of the order in accordance with the Rules, the filing of the appeal with the certified copy could not

be treated as one filed within the period of limitation. Rightly the Tribunal rejected the assessee''s appeal and confirmed the order of assessment.

Going by the same, we do not have any hesitation to reject the assessee''s appeal. Accordingly, the tax case revision is dismissed. No costs.