



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE G BASAVARAJA

SALES TAX APPEAL NO. 5 OF 2018

BETWEEN:

M/S RDS PROJECT LIMITED,
WARD NO IV -6, BINAGA, KARWAR, KARNATAKA – 581 307.
(REPRESENTED BY ITS SHASHANK GOYAL, DIRECTOR)

...APPELLANT

(BY SRI. RAVI RAGHAVAN., ADVOCATE AND
SRI. SIDDARTH BAVLE.,ADVOCATE)

AND:

ADDITIONAL COMMISSIONER COMMERCIAL TAXES
(ZONE - II), 7TH FLOOR, VTK - 1,
GANDHINAGAR, BANGALORE – 560 009.

...RESPONDENT

(BY SRI.ADITYA VIKRAM BHAT.,AGA)

THIS STA FILED UNDER SEC. 66(1) OF THE KARNATAKA
VALUE ADDED TAX ACT, 2003 AGAINST THE ORDER DATED
16.03.2017 PASSED IN CAS NO.252011124 ON THE FILE OF
THE JOINT COMMISSIONER OF COMMERCIAL TAXES
(APPEALS)-1, DHARWAD DIVISION HUBBALLI, PARTLY
ALLOWING THE APPEALS FILED AGAINST REASSESSMENT
ORDER DATED 27.04.2016 PASSED IN A.O.NO.207759723
(VAT) AND A.O.NO.219759742 (CST) ON THE FILE THE
ASSISTANT COMMISSIONER OF COMMERCIAL TAXES
(AUDIT),GANDHINAGAR BANGALORE, FILED UNDER SECTION
39(1) ALONG WITH PENALTY UNDER SECTION 72(2) AND
INTEREST UNDER SECTION 36 OF THE KVAT ACT 2003 FOR
THE TAX PERIOD OF 2013/14.

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

Digitally signed
by SHARADA
VANI B
Location: HIGH
COURT OF
KARNATAKA



CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
AND
HON'BLE MR JUSTICE G BASAVARAJA

ORAL JUDGEMENT

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

This Appeal by the Assessee calls in question the order dated 20.03.2018 made by the Respondent – ACCT (Zone-II). The operative portion of the said order reads as under:

"The FAA's order dated 16-03-2017 vide appeal No;AP/VAT-49/2016-17 for the tax periods falling in the financial year 2013-14 and the PA's order dated 27-04-2016 for the aforesaid tax periods are set aside and the matter is remitted to the PA to re-compute the turnovers and tax liability in terms of this order."

2. The Assessee has framed the following substantial questions of law for Admission of the Appeal and we agree with the same.

"1. Whether the Id. Revisionary Authority was right in holding that the Appellant is liable to pay tax on the deemed sales value of the goods purchased in the course of inter-state trade and commerce under Section 15(5) (a) r/w Section 4 (1)(c) of the KVAT Act, 2003 and not the purchase value such goods?"

2. Whether the Id. Revisionary Authority was right in holding the Appellant is liable to include gross profit and inward freight to the purchase value of goods purchased inter-state to arrive at



the value of such goods' involved in execution of works contract as referred to in Section 15(5)(a) of the KVAT Act, 2003?"

3. Whether the Id. Revisionary Authority was right in restricting the deduction of sub-contractor turnover under Section 15 (5)(b) of the KVAT Act, 1957 to Rs.5,66,35,357/- and not Rs.5,92,44,856/- as claimed by the Appellant on the only ground that the said claim has been verified by the lower authorities when undisputedly the Appellant has furnished all documentary evidences in support of its claim of deduction?"

4. Whether the Id. Revisionary Authority has rightly invoked jurisdiction under Section 64 of the KVAT Act without adverting that the appeal order dated 16.03.2018 is erroneous, besides being prejudicial to interest of revenue?"

3. After service of notice, learned AGA appearing for the Respondent resists the Appeal passionately making submission in justification of the impugned order and the reasons on which the same is structured.

4. Having heard the learned counsel for the parties and having perused the Appeal papers, we are inclined to grant a limited indulgence in the inasmuch as, the substantial questions of law Nos. 1 & 2 above need not detain the Court for long inasmuch as, they are no longer *res integra* in view of Coordinate Bench decision in **STRP No.325/2017** between **STATE OF KARNATAKA vs. M/s. S N BUILDERS &**



DEVELOPERS, disposed off on 30.09.2021. The said questions having been answered in favour of the Assessee and against the Revenue, the matter is remitted to the portals of Assessing Authority for considering the third question of law as reproduced above.

In the above circumstances and with the above observations, the Appeal is disposed off making it clear that the remand shall be heard & decided in the statutory limit as prescribed under Section 40 of the Karnataka Value Added Tax Act, 2003 and after giving an opportunity of hearing to the Assessee. All contentions of the parties are kept open.

Costs made easy.

Sd/-
(KRISHNA S DIXIT)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE