IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 14TH DAY OF SEPTEMBER 2018

PRESENT

THE HON'BLE MRS. JUSTICE S. SUJATHA

AND

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

STRP NOS.200001/2017 AND 200013-015/2018

Between:

1. Government of Karnataka
   Through Secretary
   Department of Finance
   Vidhan Soudha, Bengalore-01

2. The Joint Commissioner of
   Commercial Taxes (Appeals)
   Kalaburagi Division, Kalaburagi

3. The Asst. Commissioner
   Of Commercial Taxes
   (LVO-525) Kalaburagi – 585 102

... Petitioners

(By Sri Mallikarjun Sahukar, HCGP)

And:

M/s. Gulbarga Electricity Supply
Company Limited, Gulbarga
TIN: 29340257942

... Respondent

(By Sri Ravindra Reddy, Advocate)

These STRPs' are filed under Section 65(1) of the Karnataka Value Added Tax Act, praying to set aside the order dated 30.08.2013 passed by the Karnataka Appellate Tribunal at Bengaluru in STA Nos.1434/2012 to 1437/2012 and allow these petitions.

These STRPs' coming on for Orders, this day, ***SUJATHA J.,*** made the following:

ORDER

These revision petitions are filed under Section 65(1) of the Karnataka Value Added Tax Act, 2003 ('Act' for short) by the Revenue, challenging the common judgment passed by the Karnataka Appellate Tribunal at Bangalore ('Tribunal' for short) dated 30.08.2013 in STA Nos.1434-14347/2012 with a delay of 1165 days.

2. We would have considered the delay aspect liberally provided, the revenue has established a good case on merits. We have heard the learned counsel appearing for the parties on merits to arrive at a decision in this regard.

3. These revision petitions are filed by the Revenue, purporting to raise the following substantial questions of law as framed in the appeal memorandum:

"***SUBSTANTIAL QUESTION OF LAW***

1. *Whether the order passed by the Karnataka Appellate Tribunal, Bengaluru, is sustainable in law.*

2. *Whether the order of the KAT, Bengaluru, set aside the appellate order passed under Section 10(b) 10(a) (1) r/w Section 9(2) of CST Act by the FAA and LVO, is in accordance with law."*

4. Learned counsel for the petitioners/Revenue submits that the Tribunal failed to consider the classification of electrical meter vis-à-vis certificate of registration issued to the assessee under the Central Sales Tax Act, 1956 for the generation and distribution of electricity. According to the learned counsel, though electrical goods are specified in the certificate of registration, what is purchased by the assessee is the

Electrical Meter, which cannot be construed as electrical goods, nor is used in the generation or distribution of electricity or any other form of power to avail the concessional rate of tax using the 'C' Forms or in other words, it is misuse of 'C' Forms by the respondent. Similarly, it is argued that CFL bulbs purchased interstate against the 'C' Forms is not properly appreciated by the Tribunal to extend the benefit of 'C' Forms to the assessee.

5. We are not convinced by the arguments advanced by the learned counsel for the petitioners/Revenue for two reasons: firstly, the scope of revision being limited, the points that were not urged and addressed by the Tribunal cannot be considered for the first time in revision. The issue regarding CFL bulbs was neither argued by the Revenue, nor any finding is given by the Tribunal to exercise the power of revision. Secondly, the Tribunal has extensively considered the judgments holding the field inasmuch as Electrical Meter is

concerned and finally arrived at a decision that these Electrical Meters installed at the premises of the consumers for the purpose of recording the quantum of electrical energy supplied by the licencee to the consumer are electrical equipment which is required for the distribution of electrical energy. If so, the same falls under Section 8(3)(b) of the CST Act, which has been rightly used by the assessee to avail the concessional rate of tax.

6. No exception can be found with the finding of the Tribunal. In the circumstances, we are of the considered opinion that no question of law arises for our consideration in these revision petitions. Hence, condoning the huge delay of 1165 days in filing the revision petitions does not arise. Added to this, no satisfactory explanation is offered by the Revenue to condone this inordinate delay in filing the revision petitions before this Court. Hence, we dismiss

IA.No.1/2017. Consequently, revision petitions stand dismissed.

Sd/-
JUDGE

Sd/-
JUDGE

LG