

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).11166/2007

(From the judgment and order dated 06/03/2006 in WA No. 578/2006 & WP No. 3303/2006 of The HIGH COURT OF KARNATAKA AT BANGALORE)

M/S MITSUBHISHI CORPORATION Petitioner(s)

VERSUS

STATE OF KARNATAKA & ORS. Respondent(s)

(With appln. for permission to file addl. documents, c/delay in filing rejoinder affidavit and with prayer for interim relief & Office Report)  
(For final disposal)

Date: 10/04/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA  
HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Petitioner(s) Mr. M.L. Verma, Sr.Adv.  
Mr. Atul shanker Mathur, Adv.  
Mr. Amit Verma, Adv. for  
M/S. Khaitan & Co.,Adv.

For Respondent(s) Mr. T.L.V. Iyer, Sr.Adv.  
Mr. Kaustubh Anshuraj, Adv.  
Ms. Anitha Shenoy,Adv.

Mr. B. Chahar, Sr.Adv.  
Ms. Neera Gupta, Adv.  
Ms. Madhuramia Tatia, Adv.  
Mr. D.S. Mahra,Adv.

Mr Tarun Johri,Adv.

UPON hearing counsel the Court made the following  
ORDER

Leave granted.

The appeal is disposed of with no order as to costs.

(S. Thapar) (Madhu Saxena)  
PS to Registrar Court Master

The signed order is placed on the file.  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2726 OF 2008  
(Arising out of SLP(C) No.11166/2007)

M/S MITSUBHISHI CORPORATION  
APPELLANT (S)

...

VERSUS

STATE OF KARNATAKA & ORS.

...RESPONDENT(S)

ORDER

Leave granted.

The short but important question of law which arises for determination in this Civil Appeal is whether the subject transaction is an interstate sale or not under Section 3(a) of the Central Sales Tax Act, 1956.

In our view, the learned Single Judge was right in coming to the conclusion that the matter required interpretation of various documents and adjudication on numerous facts. That, there is a hierarchy of Authorities before whom the assessee could have obtained redress and since the assessee had failed to prefer an appeal to the First Appellate Authority under Section 20 of Karnataka Sales Tax Act, 1957, the assessee should be directed to exhaust the appeal provisions under the said 1957 Act. In this connection, it may be noted that the assessee preferred Writ Petition to the High Court against the Order of Assessment, without exhausting the provisions concerning appeal under Section 20 of the 1957 Act. However, the Division Bench in the present

-2-

case has gone into the merits of the case and has decided the matter against the assessee. We are of the view that the Division Bench should not have interfered with the impugned order passed by the learned Single Judge in directing the assessee to exhaust statutory remedy under the Act, particularly, when disputed facts arose for determination which warranted adjudication by the Authorities under the Act.

Accordingly, we set aside the impugned judgment of the Division Bench and restore the Order of the learned Single Judge directing the assessee to move in appeal under Section 20 of the 1957 Act.

The assessee - appellant herein will move under Section 20 of the 1957 Act in appeal within a period of four weeks from today. The delay, if any, stands condoned for the simple reason that important question of law does arise and secondly, the assessee herein has deposited substantial amount under the 1957 Act. We may further state that the appeal shall be decided on merits without pre-deposit within two months of the date of the assessee filing its appeal. The First Appellate Authority is directed to dispose of the matter uninfluenced by the observations made in the impugned judgment.

Civil Appeal stands disposed of accordingly with no order as to costs.

.....J.  
[ S.H. KAPADIA ]

New Delhi,  
April 10, 2008

.....J  
[ B. SUDERSHAN REDDY ]