

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NOS. 1253-1258 OF 2001

M/s. K.Sreedjaram & Co. (P) Ltd.

Appellant(s)

Versus

State of Kerala

Respondent(s)

)

(With prayer for interim relief and office report)

Date: 08/08/2006 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN  
HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s)

Mr. Ramesh N. Keswani, Adv.  
Mr. Ramlal Roy, Adv.  
Mr. C.G. Sivakumaran, Adv.

For Respondent(s)

Mr. P.V. Dinesh, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeals stand disposed of in terms of the signed order. No order as to costs.

(J.S. Rawat)

(Kanwal Singh)

AR-cum-PS

Court Master

[Signed order is placed on the file.]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 1253-1258 OF 2001

Versus

State of Kerala

Respondent(s)

O R D E R

These appeals by special leave are directed against the order passed by the High Court of Kerala dismissing the revision petitions filed by the appellant and confirming the judgment of the Sales Tax Appellate Tribunal [for short "the Tribunal"].

On 26th of April, 2006 this Court passed the following order:

"The question in these appeals is the percentage of unaccounted stock of the appellant during the period between the 1984-1987. The Authorities under the Kerala General Sales Tax Act, 1963, assessed the value of the unassessed stock under Sec.17(3) of the Act after rejecting the books of accounts produced by the appellant at rates which were found by the Tribunal to be exorbitant. The Tribunal itself fixed the rate at varying percentages. The outcome of this, according to the appellant, is that there has been massive additions to the total turnover disproportionate to the unaccounted stock found. According to the appellant, the rates suggested by the Tribunal varied between 21 to 127 times the difference.

The percentage fixed by the Tribunal seems to us prima facie to be without any basis. However, before we express any final views in the matter, we are of the opinion that this matter should be settled between the parties. At the highest, the appellant could get a remand back to the Tribunal which would mean further litigation between the parties. As we have already stated the period in question is 1984-97(sic). We suggest that the quantum as fixed by the Tribunal should be reduced on account of the principal to Rupees ten lakhs. This together with interest thereon at the rates fixable under the Act should be sufficient both for the purpose of the appellant and the Department. Learned counsel appearing on behalf of the respective parties seek time to take instructions in the matter.

It is recorded that the amount as demanded by the Sales Tax Authorities on the basis of the decision of the Tribunal has already been paid by the appellant together with the accrued interest thereon. It is being made clear that in the event the parties settle their disputes, the respondent-Authority will not be called upon to refund the amount but to adjust the amount against future liabilities

of the appellant.

The matters are adjourned till one week after the summer vacation."

The actual period involved in the present case is for the assessment years 1984-85, 1986-87, 1987-88, 1990-91, 1991-92 and 1992-93.

Counsel appearing for the appellant, after taking instructions, states that the suggestion made by this Court is acceptable to the appellant.

Counsel for the respondent states that he has not received any instructions in this regard so far and the Court may proceed to pass appropriate orders deemed fit.

The aforesaid order dated 26th April, 2006 indicates that this Court was prima facie of the view that the order of the Tribunal seems to be without any basis. To avoid further litigation between the parties, the Court suggested that the principal amount be reduced to Rs.10 lakhs from what had been determined by the Tribunal. The appellant would be liable to pay Rs. 10 lakhs from the date it became due along with the statutory interest.

Counsel for the appellant has stated before us that after the passing of the order by the Tribunal the appellant has deposited the sum of Rs.17,24,958/- towards the principal amount and Rs. 10,08,516/- towards the interest accrued thereon.

After considering the matter in depth, we are of the opinion that the figure suggested by this Court in the afore-quoted order dated 26th April, 2006 is just and appropriate in the facts and circumstances of the

present case. Accordingly, the principal amount is reduced to Rs.10 lakhs and the liability of the appellant is determined at Rs. 10 lakhs plus statutory interest thereon from the date it became payable till the date it was actually paid. It is made clear that the appellant would not be entitled to any refund pursuant to this order but, however, the excess tax which includes interest as well paid by the appellant would be adjusted against the future liabilities of the appellant.

The appeals are disposed of in the above terms. However, there shall be no order as to costs.

.....J.  
(ASHOK BHAN)

New Delhi; .....J.  
August 08, 2006. (MARKANDEY KATJU)