

ITEM NO.12

Virtual Court 4

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).8987/2020

(Arising out of impugned final judgment and order dated 14-10-2019 in WA No. 2976/2018 passed by the High Court of Karnataka at Bengaluru)

SUJATA K.C.

Petitioner(s)

VERSUS

M/S KALYANI MOTORS (PVT) LTD & ORS.

Respondent(s)

(WITH I.R. and IA No.47026/2020-CONDONATION OF DELAY IN FILING)

Date : 09-07-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s) Mr. K G Kamath, Adv.
Ms. Veena Kamath, Adv.
Mr. Abhikalp Pratap Singh, Adv.
Mr. Gaurav Agrawal, AOR

For Respondent(s)

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

1 Delay condoned.

2 An order of reassessment passed by the petitioner on 28 October 2016 in her capacity as Deputy Commissioner of Commercial Taxes was challenged by the assessee. By the order, a demand was raised under the Karnataka Value Added Tax Act 2003. By an order dated 24 September 2018, the Single Judge of the High Court set aside the order of reassessment,

holding that the order was not consistent with the provisions of a notification dated 31 March 2010.

- 3 The order of the Single Judge, on merits, is not the subject matter of the present proceedings. However, the Single Judge, while setting aside the reassessment imposed costs of Rs 50,000 and directed that the costs be recovered from the petitioner from her personal resources. The Single Judge observed that the petitioner had passed an order which "is therefore nothing less than suffering from malice-in-facts as well as malice-in-law". The petitioner challenged the order of the Single Judge insofar as it contained observations against her and the order of costs in an appeal before the Division Bench of the Karnataka High Court. The Division Bench has upheld the order of the Single Judge.
- 4 Having regard to the conspectus of the present dispute, it is not necessary to issue notice in these proceedings to the assessee. The setting aside of the reassessment is not in question in the present proceedings nor is the direction imposing costs. The direction to recover costs from the petitioner and the observations against her are in question.
- 5 We find from the record that the learned Single Judge had no reasonable justification to hold that the petitioner had passed a whimsical order and that it suffered from malice in fact and in law. These observations were unnecessary for the adjudication of the merits of the dispute raised by the

assessee. The conduct of the petitioner was not in question. Even assuming that an order passed by the assessing officer was erroneous, there was no reason for the High Court to make the observations, which we have quoted earlier, and direct the imposition of costs personally against the petitioner.

- 6 We therefore direct that the observations of the Single Judge in paragraph 7 of the order dated 24 September 2018 as against the petitioner shall stand expunged. Similarly, the direction in paragraph 8 of the order for recovery of costs from the personal resources of the petitioner shall stand set aside. While doing so, we clarify, at the cost of repetition, that the order of the learned Single Judge quashing the reassessment is not the subject matter of the present proceedings and nothing contained in this order shall amount to an expression of opinion on the correctness of that direction.
- 7 Subject to the aforesaid clarification, we accordingly direct that:

- (i) The observations against the petitioner in paragraph 7 of the order of the Single Judge dated 24 September 2018 shall stand expunged;
- (ii) The direction in paragraph 8 of the order of the Single Judge for recovery of costs from the personal resources of the petitioner shall stand set aside;

and

(iii) In consequence, the observations of the Division Bench in the appeal, confirming the aforesaid aspects of the order of the Single Judge, shall not operate as against the petitioner.

8 The Special Leave Petition is accordingly disposed of.

9 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAMLESH RAWAT)
COURT MASTER