

M/s P. P. Varkey and Company

Vs

Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam

Special Leave Petition (Civil) No. 15232 of 1990

(M. N. Venkatachaliah, K. Jayachandra Reddy JJ)

09.10.1991

ORDER

1. Heard learned counsel on both sides.
2. The petitioner, an Excise Contractor is aggrieved by the order of the High Court remitting certain proceedings of assessment to the Sales Tax Appellate Tribunal for a fresh disposal. It is not disputed that the case is one in which a best judgment assessment was justified. The controversy is as to the quantum of the estimate on best judgment.
3. We decline to go into the details of the estimated figures of gross and taxable turnover as the matter is essentially one to be examined by the Tribunal in the proceedings on remand.
4. The grievance of the petitioner is that the High Court left little choice to the Tribunal in the matter of the estimate of the gross and taxable turnovers. But the apprehension of the petition could be allayed by directing the Tribunal that, in disposing of the matter upon remand, it shall while taking due note of the observation of the High Court in regard to the effect of the non-production before the Tribunal of the books of account which the petitioner had obtained back from the authorities during the proceedings, the Tribunal may however, not be hampered by any other observation which might limit its choice of the basis of assessment and shall dispose of the matter in accordance with law on settled principles guiding assessments on best judgment.
5. With these observations, the special leave petition is disposed of.

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