CASE NO.:
Appeal (civil) 2726 of 2008

PETITIONER:
M/S MITSUBHISHI CORPORATION

RESPONDENT:
STATE OF KARNATAKA & ORS

DATE OF JUDGMENT: 10/04/2008

BENCH:
S.H. KAPADIA & B. SUDERSHAN REDDY

JUDGMENT:
JUDGMENT

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 C
ivil

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 red
ress

and since the assessee had failed to prefer an appeal to the First Appellate Authority und
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Section 20 of Karnataka Sales Tax Act, 1957, the assessee should be directed to exhaust th
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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 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, ...J
April 10, 2008 [B. SUDERSHAN REDDY]