IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
*****

Special Appeal No.60 of 1997

Between:

M/s. Blue Star Limited, Bollaram, Secunderabad
rep. by its Deputy General Manager
Mr.G.V.S.Anand Kumar

…. Appellant

Vs.

Commissioner of Commercial Taxes, AP, Nampally, Hyderabad.

…. Respondent

DATE OF JUDGMENT PRONOUNCED: 22.07.2015.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN & THE HON'BLE SRI JUSTICE S. RAVI KUMAR

1	Whether Reporters of Local newspapers may be allowed to see the Judgments?	Yes/No
2	Whether the copies of judgment may be marked to Law Reports/Journals	Yes/No
3	Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?	Yes/No

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE S. RAVI KUMAR

SPECIAL APPEAL No.60 of 1997

JUDGMENT: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri S.Dwarakanath, Learned Counsel for the appellant and Sri M.Govind Reddy, Learned Special Standing Counsel for Commercial Taxes.

This appeal, under Section 23(1) of the A.P.G.S.T. Act, is preferred by the assessee against the revisional order passed by the Commissioner, Commercial Taxes dated 21.04.1997. By the said order, the Commissioner revised the order of the Appellate Deputy Commissioner dated 06.04.1994.

The appellant herein was assessed by the Commercial Tax Officer, Marredpally Circle, Punjagutta, for the assessment year 1990-91. Aggrieved thereby the appellant preferred an appeal to the Appellate Deputy Commissioner disputing levy of tax on the turnover relating to movement of goods from their factory at Thane to the works spot in Andhra Pradesh; the turnover relating to purchase of material from outside the State; and the turnover relating to the sale of testing machines etc. The appeal preferred by the appellant was allowed by the Appellate Deputy Commissioner by his order dated 06.04.1994.

By the order, now under appeal before us, the Commissioner, Commercial Taxes set aside the order of the Appellate Deputy Commissioner holding that the terms and conditions of the contract showed that it was an integrated works contract; sale of ascertained goods must be deemed to take place inside the State, if the goods are available within the State at the time of the contract of sale; the assessee had agreed to execute the contract in the premises of different customers; it was an integrated contract entered into for supply and erection of air conditioning plants; components, value of material and labour charges could be identified in the composite contract; these goods were appropriated by the assessee inside the State of Andhra Pradesh; the movement of goods from outside the State to the State of Andhra Pradesh was to facilitate execution of the contract entered into by the assessee; though the contract was an integrated contract for supply and installation of air conditioning equipment, the assessee had designed two sets of transactions i.e, supply of goods and labour work only to avoid tax liability and, therefore, the proposal in the show-cause notice was required to be confirmed.

While the revisional order of the Commissioner, Commercial Taxes, under challenge in this appeal, relates to the assessment year 1990-91, similar orders passed by the Commissioner, Commercial Taxes, with respect to the very same appellant for the earlier assessment years from 1985-86 to 1989-90, were the subject matters of challenge before this Court in Special Appeal Nos.78, 82, 65 and 85 of 1997 and 9 of 1998. A Division Bench of this Court, by its order dated 05.12.2007, held that principles of natural justice required that the material filed by the appellant should also be considered in accordance with law; and it was a fit case that the matter should be remanded to the Commissioner, Commercial Taxes. All the five Special Appeals were remanded to the Commissioner for adjudicating the matter afresh, after giving an opportunity to the appellant and after taking into consideration the material filed by them. The Commissioner was directed to pass an order afresh within six months from the date of receipt of a copy of the order. The Division Bench also granted liberty to the appellant to supply fresh copies of the documents they had filed earlier; and, accordingly, disposed of the Special Appeals.

It is not in dispute that all the six Special Appeals (Special Appeal No.60 of 1997 which is now under challenge before us and the other five Special Appeals which were disposed of by the Division Bench by its order dated 05.12.2007) were disposed of by the Commissioner, Commercial Taxes on the very same day i.e 21.04.1997. As the revisional orders passed by the Commissioner with respect to the very same assessee, for five earlier assessment years, have been set aside by the Division Bench, and the matters remanded to the Commissioner, Commercial Taxes for his consideration afresh, this Special Appeal is also disposed of in accordance with, and in terms of, the order of the Division Bench in Special Appeal No.9 of 1998 and batch dated 05.12.2007.

As the revisional order was passed nearly two decades ago in the year 1997, that too in relation to the assessment relating to year 1990-91, the Commissioner, Commercial Taxes shall hear and decide the revision afresh with utmost expedition, in any event not beyond four months from the date of receipt of a copy of this order. Miscellaneous Petitions pending, if any, shall also stand disposed of. No costs.

RAMESH RANGANATHAN, J

S. RAVI KUMAR, J

Date:22.07.2015.

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