

THE HON'BLE SRI JUSTICE K.C. BHANU
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

SPECIAL APPEAL Nos.16 AND 17 OF 2002

COMMON JUDGMENT: (per Hon'ble Sri Justice M. Seetharama Murti)

Both these Special Appeals viz., Spl.A.Nos.16 and 17 of 2002 by the appellant/dealer under Section 23(1) of the Andhra Pradesh General Sales Tax Act, 1957 read with Rule 41 of the Andhra Pradesh General Sales Tax Rules, 1957 are directed against the respective Orders passed by the Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad in CCT's Ref. L.III(1)/2246/98-1 and CCT's Ref.L.III(1)/2246/98-2 on 01.08.2002.

2. We have heard the submissions of the learned counsel for the appellant/dealer and the learned Special Government Pleader for Taxes and we have perused the material record.

3. The only issue involved in both these appeals is – 'Whether the Audio Cassettes are 'electronic goods' as contended by the appellant/dealer?'

4. This issue is no longer *res integra* in view of a Division Bench decision of this Court in Special Appeal No.18 of 2002 and Batch. A Division Bench of this Court in the said batch of cases by its Common Order dated 14.11.2012 had held that the 'Audio Cassettes' are 'electronic goods'. Having regard to the ratio laid down in the above Common Order, it is fairly conceded that these appeals are to be allowed.

5. Accordingly, both the Special Appeals are allowed and the impugned orders are set aside and the orders of the Appellate Deputy Commissioner (CT), Secunderabad, are restored.

6. It is submitted that pursuant to the interim orders of this Court, the appellant/dealer had deposited 30% of the tax levied on the disputed turnover and that in view of this common judgment now in favour of the appellant/dealer,

the appellant is entitled for refund of the said tax amounts. The said submission is not disputed by the learned Government Pleader. The Department is, therefore, directed to refund the tax amounts deposited as per the interim orders of this Court to the appellant/dealer in accordance with the procedure established by law.

7. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in these appeals shall stand closed.

JUSTICE K.C. BHANU

JUSTICE M.SEETHARAMA MURTI

Date:01.04.2015

Note: Registry is directed to enclose a copy of the

Common Order dated 14.11.2012 in Spl.A.No.18 of 2002 and Batch.

(B/o)

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