* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

<u>+ Writ Petition No.24424 of 2017</u>

% Date: 02-8-2017

M/s. Andhra Bottles, Rep. by its Proprietor,
Mr. Sakam Giridhar, # 5-4-76, Bhavani Colony,
Premavatipet, Hyderabad-500 030

… Petitioner

Vs.

$ 1. Commercial Tax Officer, Vanasthalipuram Circle,
Saroornagar Division, Hyderabad

2. Appellate Deputy Commissioner (CT),
Hyderabad Rural Division, Hyderabad

3. State of Telangana,
Rep. by its Prl. Secretary to Govt.,
Revenue (CT-II) Dept.,
Talangana Secretariat, Hyderabad

… Respondents

! Counsel for Petitioner : Mr. M.Venkatram Reddy

Counsel for Respondents : Mr. J.Anil Kumar
Spl. Standing Counsel for CT (TS)

< Gist:

> Head Note:

? Cases referred:
1. [2011] 37 VST 113
2. [2011] 39 VST 428 (AP)

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Order: (per V.Ramasubramanian, J.)

The petitioner has come up with the above writ petition, challenging a revised assessment of VAT for the year 2009-10 under the Telangana Value Added Tax Act, 2005.

2. Heard Mr. M.Venkatram Reddy, learned counsel for the petitioner and Mr. J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes (Telangana).

3. The impugned order has been passed under Rule 60 of the Telangana Value Added Tax Rules, 2005, on the specious plea that it is a rectification of the assessment. The period in question relates to 2009-10. The assessment was completed on 05-7-2012. The appeal filed by the petitioner was allowed on 03-12-2014 and the matter was remanded back. Thereafter, a fresh order was passed on 25-02-2016. When the petitioner made a claim for refund, on the basis of the final order, there was no response, forcing the petitioner to file a writ petition on the file of this Court.

4. Thereafter, the impugned proceedings were issued on the ground that the turnovers proposed in the show cause notice to the tune of Rs.2,46,60,115/- were not discussed while passing orders.

5. But we do not know how the said ground could be a ground for passing an order under Rule 60. The object of

Rule 60 is only to enable the rectification of mistakes and not to revise the orders of assessment.

6. As a matter of fact, the scope of Rule 50(1) of APGST Rules, which is *in pari materia* with Rule 60 of Telangana VAT Rules, 2005 came up for consideration before a Bench of this Court in *Arora Enterprises, Boggulakunta, Hyderabad v. Deputy Commissioner of Commercial Taxes*[1]. The Court held that an unintentional mistake of Court which may cause prejudice to any party alone could be rectified and that no new arguments or re-arguments on merits can be entertained to facilitate the rectification of mistakes. The said judgment has also been followed in another case arising out of the very same Rule 60 of Telangana VAT Rules, 2005 in *Lease Plan India Ltd. v. Commercial Tax Officer*[2]. Therefore, following the same, the writ petition is allowed and the impugned order is set aside. It is needless to say that if there are any other avenues open to the respondents, it is always open to them to take recourse of the same. As a consequence, penalty will also go. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

T.RAJANI, J.

02nd August, 2017.
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[1] [2011] 37 VST 113
[2] [2011] 39 VST 428 (AP)

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AND
HON'BLE SMT. JUSTICE T.RAJANI

Writ Petition No.24424 of 2017
(per VRS, J.)

02nd August, 2017.
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