HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE FIFTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR
AND
THE HONOURABLE SRI JUSTICE PULLA KARTHIK

Tax Revision Case No. 157 of 2003

Tax Revision case under Section 22(1) of A.P.G.S.T. Act, against the order dated 15.04.2002 in T.A.No.1481/2002 on the file of the Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad, against the order dated 19.06.2001 in O.R.No.2/2000-2001 on the file of the Deputy Commissioner (CT) Adilabad Division, Adilabad.

Between:
The State of Andhra Pradesh, rep. by the State Representative before S.T.A.T., Door No.5-4-404 to 408, Nampally, A.P., Hyderabad.

..Petitioner/Respondent.

And

M/s. Raghunath & Co., Cotton & C.A. Dealer, N.H.No.7, Adilabad – 504 001.

..Respondent/Appellant.

Counsel for the Petitioner: The Special Govt. Pleader for Taxes.

Counsel for the Respondent: Sri Tej Prakash Toshniwal, Advocate.

The Court made the following: **ORDER**

THE HON'BLE SRI JUSTICE T. VINOD KUMAR
AND
THE HON'BLE SRI JUSTICE PULLA KARTHIK

TAX REVISION CASE No.157 OF 2003

ORDER: (per Hon'ble Sri Justice T.Vinod Kumar)

This Tax Revision Case (TRC) is directed against the order of the Sales Tax Appellate Tribunal (for short 'the Tribunal') dated 15.04.2002 in T.A. No.1481 of 2001 for the assessment year 2000-2001 under APGST Act, 1957. The State is the petitioner in the TRC.

2. Aggrieved by the order of Deputy Commissioner (CT), Adilabad Division, Adilabad in exercising powers under Section 15 of the APGST Act and passing an order of assessment, vide proceedings No. O.R. No.2/2000-2001 dated 19.06.2001, the respondent/assessee had preferred the appeal before the Tribunal, primarily contending that the power to cause assessment is not vested with the Deputy Commissioner under the provisions of APGST Act and the G.Os issued thereunder and such power being vested with the Commercial Tax Officer or in a given case with the Assistant Commissioner. Thus, it is contended that, since the assessment order is passed by the Deputy Commissioner, the same is without authority of law is the contention of the petitioner.

3. The Tribunal by considering the submissions made before it by the respondent/assessee held that the Deputy Commissioner is not authorized to make any original assessment and, therefore, the order passed by the Deputy Commissioner is *ab initio void* and accordingly set aside the said order.

4. *Firstly*, we see no error or infirmity in the order passed by the Tribunal in setting aside the assessment proceedings. *Secondly*, it is also to be seen that the power to cause provisional assessment is provided under Section 15 of the APGST Act which specifically states that such power can be exercised in **advance during the year** (emphasis supplied by Court).

5. In the facts of the present case, the assessment year involved is 2000-2001, i.e., 01.04.2000 to 31.03.2001. Thus, the initiation and passing of the provisional assessment proceedings in June, 2001 cannot be considered as passed during the said year. In as much as by the time provisional assessment proceedings are initiated, the assessment period has ended, the Assessing Authority as authorized by the Act, could as well take up regular assessment itself and there is no

necessity to cause provisional assessment. For the said reason also, the assessment proceedings cannot be sustained apart from the same being without authority of law.

6. Accordingly, the Tax Revision Case is without any merit and is, accordingly, dismissed. No costs.

7. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

Sd/- M. VIJAYA BHASKAR
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad.
2. The Deputy Commissioner (CT) Adilabad Division, Adilabad.
3. Two CCs to the Special Govt. Pleader for Commercial Taxes, High Court for the State of Telangana at Hyderabad [OUT]
4. One CC to Sri Tejprakash Toshniwal, Advocate (OPUC).
5. Two CD Copies

JCK
PSR

HIGH COURT

TVK,J
&
PK,J

DATED:15/11/2022

ORDER

TRC.No.157 of 2003

DISMISSING THE TRC WITHOUT COSTS.

CJ

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