THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

Tax Revision Case No.136 of 2003

ORDER: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

None has appeared for the revision petitioner on call though Mr.K.P.Amarnath Reddy, learned counsel is present for the respondent.

2. This tax revision case has been filed by the State under Section 22(1) of the then Andhra Pradesh General Sales Tax Act, 1957 (briefly 'the Act' hereinafter).

3. Question proposed by the revision petitioner is whether the Sales Tax Appellate Tribunal (briefly 'the Tribunal' hereinafter) was justified in passing the order without reference to the impugned order?

4. We find from the material papers that respondent is a dealer on the rolls of Commercial Tax Officer, Mancherial. For the assessment period 01.04.1983 to 07.07.1983, respondent was assessed by the Commercial

Tax Officer vide the order dated 09.03.1988, quantifying net turnover of the respondent at Rs.16,75,91,494.00.

5. Taking the view that there was short levy of sales tax on the respondent, Joint Commissioner of Commercial Taxes (Legal) had issued show cause notice dated 12.10.1988 to the respondent under Section 20(2) of the aforesaid Act to which respondent filed reply on 28.10.1988.

6. By the order dated 16.03.1991, Joint Commissioner took the view that there were no materials to show that the respondent had incurred transport charges. Therefore proposal to revise the assessment was dropped. Inadvertently, Joint Commissioner mentioned that Commercial Tax Officer should give effect to the said order. As a matter of fact, there was nothing to be given effect to inasmuch as the proposal for revision was dropped by the Joint Commissioner.

7. Commercial Tax Officer, Mancherial, thereafter passed the order dated 16.11.1991 revising the quantum of net turnover of the respondent whereafter it was held that

total tax payable was Rs.26,61,532.00. After adjusting the tax already paid, Commercial Tax Officer held that an amount of Rs.13,03,305.00 was required to be paid by the respondent.

8. On appeal before the Appellate Deputy Commissioner, the appellate authority passed the order dated 17.12.1996, dismissing the appeal.

9. It was thereafter that the related appeal came to be filed by the respondent before the Tribunal. By the order dated 11.10.2000, Tribunal referred to the order passed by the Joint Commissioner and thereafter held that there was no scope at all for taking any other view of the observations of the Joint Commissioner. Joint Commissioner had given-up the proposal for *suo motu* revision. Therefore, there was nothing to be given effect to by the Commercial Tax Officer.

10. Accordingly, Tribunal held that order passed by the Commercial Tax Officer was wholly untenable and set aside the same.

11. We do not find any error or infirmity in the view taken by the Tribunal. The question of law as proposed by the revision petitioner does not arise at all in the facts and circumstances of the case.

12. Tax Case Revision is accordingly dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

UJJAL BHUYAN, CJ

C.V.BHASKAR REDDY, J

30.11.2022
MRM