THE HON’BLE SRI JUSTICE T. VINOD KUMAR

AND

THE HON’BLE SRI JUSTICE PULLA KARTHIK

TAX REVISION CASE No.28 of 2003

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

This Tax Revision, at the behest of revenue, is preferred against the order of the Sales Tax Appellate Tribunal (for short ‘the Tribunal’) dt.24-12-2001 in T.A.No.827 of 1997.

2. The Assessment Year involved in the present Revision case is of 1990-91 under the Andhra Pradesh General Sales Tax Act, 1957 (for short ‘the Act’).

3. The respondent-assessee herein filed an appeal before the Tribunal being aggrieved by the order of revision passed by the Deputy Commissioner (CT), Hyderabad (Rural) Division, Hyderabad dt.19-02-1997, whereby the final assessment order of the Commercial Tax Officer, Nacharam in G.I.No.3157/90-91 (APGST) dt.23-06-1994 was revised by the Deputy Commissioner in exercise of power vested in him under Section 22(2) of the Act, being prejudicial to the interest of Revenue.

4. The ground on which the Deputy Commissioner revised the assessment order of the Commercial Tax Officer was that the Assessing Authority had erroneously allowed set off of tax on the total value of packing material involved in sales made to canteen stores Department, though not being eligible for deduction.

5. The Tribunal, by the order impugned in this Revision had held that the definition of Section 2(1)(s) of the Act was amended by Act 22 of 1995 w.e.f. 01-04-1995, by which the tax component was to be excluded from the sale value in order to arrive at the turnover. Further, the Tribunal also held that clause (t) to Rule 6(1) of the APGST Rules was introduced on 01-04-1995 prescribing formula for deducting tax component, if it was not otherwise deducted. The Tribunal, by taking note of the amendments that were brought into effect from 01-04-1995 and taking note of the fact that the assessment year involved in the proceedings under challenge relate to 1990-91, held that the amended provisions could not be made applicable retrospectively so as to cover the assessment year 1990-91. The Tribunal, by recording the above said finding, had allowed the appeal and set aside the order of Revision and restored the order of Assessment.

6. Heard Sri K.Raji Reddy, learned Special Counsel appearing on behalf of the petitioner.

7. Despite service of notice on respondent, there is no representation on behalf of respondent either in person or through counsel.

8. Though learned Special Counsel sought to contend that the order of the Tribunal is wrong, it has not been shown to this Court as to the basis adopted by the Revisional Authority to revise the Assessment Order of the Commercial Tax Officer, Nacharam dt.23-16-1994 as being legal and valid. As a matter of fact, the order of the Revisional Authority does not mention any reasons for the said Authority to exercise power under Section 20(2) of the Act. The order merely records that the objections raised by the Assessee are vague and not convincing, which in the view of this Court, cannot be considered as assigning valid reason for exercise of revision power for rejecting the explanation. It is trite that reasons are the heart of any order as held by the Supreme Court in **Ravi Yashwant Bhoir Vs. District, Collector Raigad and others**[1].

9. Further, the Tribunal had allowed the appeal by taking note of the fact that the provisions on the basis of which the deduction was sought

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[1] (2012) 4 SCC 407

to be made has been introduced from a subsequent date, the same cannot be made applicable for the Assessment Year being 1990-91.

10. Thus, this Court is of the view that the said finding of the Tribunal does not suffer from any infirmity much less gives rise to question of law to be decided by this Court.

11. Therefore, the Transfer Revision Case is without any merit and it is accordingly dismissed. No costs.

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

T. VINOD KUMAR, J

PULLA KARTHIK, J

Date : 14-11-2022
Vsv