IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SRI JUSTICE E.V.VENUGOPAL

SPECIAL APPEAL No. 5 OF 2008

Appeal Under Section 23(1) (See Rule 41) of the APGST Act against the Judgment made in CCT's Ref.No.L.III(2)/143/2007-5, Dated 08.07.2008 on the file of the Court of the Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad. Preferred against the Order in Appeal No. 13156/1993-94, Dated 30.03.1994 On the file of the Court of the Appellate Deputy Commissioner (CT) Panjagutta Division, Hyderabad.

Between:

M/s. Blue Star Limited, 207, Sikh Road, Bantia Estate, Secunderabad-500 003, rep. by its Branch Manager, Mr. V. Vijayaraghavan.

...Appellant

AND

The Commissioner of Commercial Taxes, Andhra Pradesh, Nampally, Hyderabad.

...Respondent

Counsel for the Appellant: SRI S. DWARAKANATH

Counsel for the Respondent: SRI K. RAJI REDDY,
SPECIAL SC FOR COMMERCIAL TAXES

The Court made the following: JUDGMENT

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SRI JUSTICE E.V.VENUGOPAL

SPECIAL APPEAL No.5 of 2008

JUDGMENT: (Per Hon'ble Dr.SAJ)

This Special Appeal, under Section 23(1) of the APGST Act, has been filed by the appellant, challenging the impugned order, dated 08.07.2008, passed in CCT's Ref.No.L.III(2)/143/2007-5, by the respondent-Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad, whereby and whereunder the respondent confirmed the proposed revision under Section 20(1) of the APGST Act, treating the turnovers of Rs.1,09,79,845/- and Rs.28,13,972/- as deemed sales of goods in the State liable to tax under APGST Act.

2. Heard Sri S.Dwarakanath, learned counsel for the appellant, Sri K.Raji Reddy, learned Special Standing Counsel for Commercial Taxes appearing for the respondent and perused the record.

3. Several contentions are raised by the appellant before this Court that findings recorded by the respondent in the impugned order are contrary to the documents placed on record. The respondent did not examine the sale transactions in detail in determining the nature of the transactions and the applicability of the APGST Act. The findings recorded by the respondents are perverse and not in consonance with the material on record. The respondent did not properly analyse the documents on record to arrive at a decision. Therefore, the impugned order dated 08.07.2008 passed by the respondent, is unsustainable and ultimately, prayed to set aside the same by allowing the appeal, as prayed for.

4. On the other hand, the learned Special Standing Counsel for Commercial Taxes appearing for the respondent supported the impugned order dated 08.07.2008 passed by the respondent.

5. Both the counsel on record brought to the notice of this Court that similar questions emerged for determination in Writ Petition No.11528 of 2013 and batch, wherein a Division Bench of the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, *vide* common order, dated 24.04.2015, was pleased to set aside the assessment orders impugned therein and directed the authorities concerned to re-examine the matter and pass orders afresh, in accordance with law, after giving the petitioners therein a reasonable opportunity of being heard.

6. The facts and circumstances of the case on hand are akin to the facts and circumstances of the above referred W.P.No.11528 of 2013 and batch.

7. Accordingly, this Special Appeal is disposed of in terms of the above referred common order, dated 24.04.2015, passed in Writ Petition No.11528 of 2013 and batch, by the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh. The impugned order, dated 08.07.2008, passed in CCT's Ref.No.L.III(2)/143/2007-5, by the respondent is set aside. Consequently, CCT's Ref.No.L.III(2)/143/2007-5, is restored to its file and the respondent is directed to re-examine the subject matter of this appeal and pass orders afresh, in accordance with law, after giving reasonable opportunity of hearing to the appellant herein. As the subject transactions pertains to the Assessment Year 1989-90, the respondent is directed to complete the said exercise within a period of three (03) months from the date of receipt of a copy of this judgment.

Miscellaneous petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.

SD/- K.SRINIVASA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad.
2. The Appellate Deputy Commssoner (CT) Punjagutta Division, Hyderabad.
3. Two CCs to the Special SC for Commercial Taxes, Hyderabad [OUT]
4. Two CD Copies

GJ

HIGH COURT

DATED:15/09/2022

JUDGMENT

SPECIAL APPEAL No. 5 of 2008

DISPOSING OF THE SPECIAL APPEAL

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19/12/22