

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

AND

THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO

TAX REVISION CASE NO: 117 and 277 OF 2010

TAX REVISION CASE NO: 117 OF 2010

Tax Revision Case under Section 22(1) Read with Rule 10 of APGST Act, 1957, to revise the order dated 07.06.2008 passed in T.A.No. 1557 of 2001 on the file of the Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad.

Between:

M/s Ramani Timbers, Kamareddy., Rep.by its Partner Sri Chaganlal.

...PETITIONER/APPELLANT

AND

The State Of Andhra Pradesh, Rep. by the State Representative Before the
Sales Tax Appellate Tribunal Opp: Gandhi Bhavan, Nampally, A.P., Hyderabad.

...RESPONDENT

TAX REVISION CASE NO: 277 OF 2010

Tax Revision Case under Section 22(1) Read with Rule 10 of APGST Act, 1957, to revise the order dated 07.06.2008 passed in T.A.No. 1282 of 2001 on the file of the Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad.

Between:

M/s. Ramani Timbers, rep by its Partner Sri Chaganlal R/o. Kamareddy.

...PETITIONER/APPELLANT

AND

The State of Andhra Pradesh Rep. by the State Representative Before the Sales
Tax Appellate Tribunal Opp: Gandhi Bhavan, Nampally, AP., Hyderabad.

...RESPONDENT

Counsel for the Petitioner: Sri. B Srinivas

Counsel for the Respondent: Sri. Swaroop Oorilla, Special GP for State Tax

The Court made the following: COMMON ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO
TAX REVISION CASE Nos.117 & 277 of 2010

DATE OF COMMON ORDER: 08.12.2025

Between:

M/s.Ramani Timbers.

...Petitioner

AND

The State of Andhra Pradesh,
Represented by State Representative,
Before Sales Tax Appellate Tribunal,
Nampally, Hyderabad.

...Respondent

COMMON ORDER: *(per the Hon'ble Sri Justice P.Sam Koshy)*

Heard Mr. B.Srinivas, learned counsel for the petitioner; and
Mr. Swaroop Oorilla, learned Special Government Pleader for State
Tax appearing on behalf of the respondent.

2. Since the issue involved in the instant Tax Revision Cases is one and the same, and the parties also being the same, they are heard together and are decided by this Common Order.
3. The instant Tax Revision Cases are filed by the petitioner under Section 22(1) of the Andhra Pradesh Goods and Services Act, 1957 (for short 'APGST Act') challenging the common order dated 07.06.2008, passed by the Sales Tax Appellate Tribunal, Andhra Pradesh (for short 'STAT') in Tax Appeal Nos.1557 & 1282 of 2001.
4. Tax Revision Case No.117 of 2010 is one against the order of assessment passed by the Assessing Officer. Whereas, Tax Revision Case No.277 of 2010 is one where the order of penalty imposed passed by the Assessing Officer is under challenge.
5. The facts of the case in brief are that the petitioner is a timber merchant. The petitioner submitted his annual returns on 31.05.1999. Subsequently, it is said that an inspection was conducted at the premises of the petitioner on 21.07.1999 wherein certain incriminating material was found in the course of inspection in respect of some income generated by the petitioner during the year in which he had not disclosed returns. Thereafter, an

assessment order itself was passed on 19.08.1999 i.e. much after the inspection was conducted. It is this assessment order which was revised by the Revisional Authority i.e. The Deputy Commissioner (CT) vide order dated 16.08.2001. In the revisional order, the Revisional Authority insofar as the disclosure made on 21.07.1999 and the non-disclosure of purchase and sale of timber in the regular books of accounts and also non-disclosure of sales in the monthly A2 returns, considered it to be intentional and willful suppression of the purchase and sale of timber with a *mala fide* intention of evading tax. Therefore, the Revisional Authority assessed tax on the so-called disclosure of income and in addition also imposed penalty on the said amount. Subsequently, the order of Revisional Authority was subjected to challenge by the petitioner before the STAT. The STAT in turn had passed the impugned common order dismissing the tax appeals preferred by the petitioner. Hence, the instant Tax Revision Cases are filed by the petitioner.

6. The question of law raised by the petitioner in both these Tax Revision Cases is "whether the order passed by the Revisional

Authority is to be considered one under Section 20 of the APGST Act or under Section 14(4) of the APGST Act?"

7. Learned counsel for the petitioner contended that immediately after the inspection was done and whatever was detected by the inspection squad, the petitioner addressed a letter on the same day accepting his mistake insofar as not reporting the actual turnover and not paying tax. However, the petitioner paid the difference of tax vide cheque No.307170, dated 16.08.1999, in favour of DCTO, Kamareddy, and accepting his guilt the petitioner also paid the compounding fees vide cheque No.307171, dated 21.07.1999. Therefore, both these transactions would very well go to establish that before the assessment was passed on 19.08.1999, which is much after the inspection, the petitioner had already accepted his guilt and had paid the differential tax and compounding fees.

8. According to the learned counsel for the petitioner, this itself is good enough to establish that the Department was in full knowledge of the developments that have transpired post inspection. Therefore, there cannot be said to be any sort of

misrepresentation or suppression of facts and the order of Revisional Authority cannot be considered to be one under Section 14(4) of the APGST Act, but it has to be considered under Section 20 of the APGST Act.

9. *Per contra*, the learned Special Government Pleader for State Tax opposing the Revisions contended that the proceedings drawn pursuant to an inspection cannot be equated with that of an ordinary proceeding drawn at the time of the assessment proceedings initiated by the Department. Therefore, when proceedings are drawn on the basis of fresh materials which were not made available at the time of submission of returns and which were also not reflected in the original books of accounts has to be considered one under Section 14(4) of the APGST Act and not under Section 20 of the APGST Act.

10. According to the learned Special Government Pleader for State Tax, the two proceedings are entirely different since one is initiated by the assessing authority and the other by the Vigilance & Enforcement Wing. The assessing authority is not aware of the inspection conducted and the materials unearthed during the

course of inspection. Thus, under Section 14(4) the new materials that were unearthed in the course of inspection is sufficient enough for the Revisional Authority to revise the order of assessment.

11. Having heard the contentions put forth on either side and on perusal of records, the factual matrix of the case as is narrated from the pleadings goes to show that admittedly the returns were submitted by the petitioner on 31.05.1999 and it was subsequently that an inspection was conducted at the premises of the petitioner where certain details pertaining to the purchase and sale of timber was detected. Immediately after the inception was done, the petitioner accepting his guilt paid the difference of tax amount and also moved an appropriate application seeking compounding of fees and also paid the compounding fees. Both these were much before the assessment order was passed on 19.08.1999. The Revisional Authority subsequently initiated a suo-moto revision proceedings and passed the order revising the order of the assessing authority so far as the difference of tax assessed and penalty was also imposed vide order dated 16.08.2001 and 24.09.2001.

12. According to the learned Special Government Pleader for State Tax, the powers of Revisional Authority for invoking revision depend upon interest of the revenue being prejudiced i.e. cost. In the instant case also, since the petitioner at the first instance had suppressed certain material facts which were unearthed at a later stage with an intention of evading tax is sufficient to bring it within the purview of interest of revenue being prejudiced. Therefore, the revisional order does not warrant any interference which upheld by the STAT as well. Whereas, according to the petitioner there was nothing which was suppressed from the time inspection was conducted on the basis of materials unearthed. During the inspection since the petitioner has already deposited tax is not in dispute. Therefore, there was no fresh material available before the Revisional Authority, nor can it be said that there was any evasion of tax by the petitioner as immediately thereafter entire tax liability was discharged by the petitioner.

13. It would be relevant at this juncture to refer to a judgment of the unified High Court of Andhra Pradesh in the case of **Menta**

Narasimhaswamy & Company vs. The State of A.P.¹ wherein the High Court dealing with a similar issue, held at paragraph No.5 as under:

"5. Now, the contention of Mr. Dasaratharama Reddi is that inasmuch as the present case is one where a lower rate than the correct rate was charged and that is sought to be rectified, the case squarely falls under sub-section (4) of section 14 and must be taken within the period of limitation prescribed in sub-section (4-A) of section 14. He submits that, in such a case, resort to revisional power under section 20(2) is not permissible. For understanding this argument, it is necessary to refer to sub-section (4-C) of section 14 which confers power under sub-section (4) of section 14 upon the Deputy Commissioner as well. It is with reference to this sub-section that the learned counsel contends that the Deputy Commissioner must be deemed to have exercised his power under sub-section (4) read with sub-section (4-C) of section 14, but not his power under section 20(2). For answering the above contention, it is necessary to delineate and distinguish the fields occupied by section 14(4) and section 20(1), respectively. In our opinion, both these powers are independent and distinct powers and there is no room for confusing one for the other. Section 20 contemplates revising the order or proceeding of a subordinate authority, on the material available at the time of assessment. Under section 20, the legality, propriety and regularity of an order is examined on the material upon which it was passed. Of course, in exercise of this power, the revising

¹ Tax Revision Case No.59 of 1979,
decided on 31.12.1982

authority can direct such subordinate authority to make further enquiry as it may direct. Whereas, the power under sub-section (4) of section 14 deals with what is generally known as escaped turnover. This power is invoked, when on the basis of some fresh material or information, not available at the time of making the assessment, it appears that certain turnover or business has escaped assessment, or that it has been underassessed or assessed at a lower rate. The power under section 14(4) cannot, in short, be exercised for reviewing the order, on the same material. As Rajamannar, C.J., has observed in *State of Madras v. Louis Dreyfus and Company Ltd.* [1955] 6 STC 318 (FB) dealing with similar provisions under the Madras General Sales Tax Act :

"No doubt in a general sense both rule 14(2) as well as rule 17(1) serve a common purpose, viz., to gather revenue which has improperly escaped but while rule 14(2) is directed to the correction of improper or illegal assessment orders which have levied less or more tax than justified, rule 17(1) lays emphasis on escaped turnover. The distinction between the two provisions might be expressed by saying that rule 14(2) deals with escaped assessments and rule 17(1) with escaped turnovers, notwithstanding that the latter also would mean that a lesser amount of tax has been levied. So understood the two provisions would be completely reconcilable and the two jurisdictions - to revise assessments and to reopen them - would each be assigned to the proper authority.

The language of rule 17(1) is consistent with this construction. The 'escape' that serves as the foundation

of the jurisdiction to reopen an assessment is that of 'turnover' and not, be it noted, an assessment. 'Turnover' escapes when it is not noticed by the officer either because it is not before him by reason of an inadvertence, omission or deliberate concealment on the part of the assessee, or because of want of care on the part of the officer the turnover though in the books has not been taken notice of. This would be the natural and normal meaning of the expression 'turnover which has escaped' in rule 17(1)."

14. The order of the STAT emphatically shows that upon inspection the petitioner had paid the differential tax to the Assessing Officer by cheque. To the same Assessing Officer, the petitioner had also paid the compounding fees by way of cheque. Under the said circumstances, it is difficult to accept that the Assessing Officer was not aware of the inspection and the outcome of inspection. The payment of differential tax and the payment of compounding fees were also much before the assessment order itself was passed. Thus, these materials were available at the time of inspection and were also available when the Assessing Officer had passed the assessment order on 19.08.1999 and those which were available with the Assessing Officer and which the Assessing Officer had taken note of cannot be a part of the proceedings for

drawing revision and for revising the order passed by the Assessing Officer. The Revisional Authority's power to review can be exercised only in the event of the authorities establishing that there was a prejudice to the interest of the revenue that is likely to occur. The Revisional Authority cannot revise the order based upon the materials and facts which were already available with the authorities. Therefore, the revisional orders dated 16.08.2001 and 24.09.2001 are unsustainable. Another reason to interfere with the impugned orders is that since the petitioner has already paid the difference of tax amount long back even before the Revisional Authority had passed the order, imposition of penalty would not be fair and justifiable.

15. Therefore, the Tax Revision Cases filed by the petitioner deserve to be and are accordingly allowed and the impugned order passed by the STAT and the order passed by the Revisional Authority are set aside. The question of law framed stands answered in favour of the petitioner holding that the order of the Revisional Authority since it was not based on any fresh materials cannot be treated to be an order under Section 14(4) of the APGST Act.

16. As a sequel, miscellaneous petitions pending if any, shall stand closed. However, there shall be no order as to costs.

**SD/- R.KARTHIKEYAN
JOINT REGISTRAR**

//TRUE COPY//


SECTION OFFICER

To

1. The Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad.
2. Two CCs to the Special Government Pleader for State Tax, High Court for the State of Telangana at Hyderabad. [OUT]
3. One CC to SRI. B SRINIVAS, Advocate [OPUC]
4. Two CD Copies

PR/PSL



HIGH COURT

DATED:08/12/2025

COMMON ORDER

TREVC.No.117 AND 277 OF 2010



ALLOWING THE TREVC'S

(7)

kpr
23/12/25