IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

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

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO

TREVC Nos: 7 and 34 OF 2010

T.R.E.V.C. No. 7 of 2010

Tax Revision is filed under Section 22(1) of the APGST ACT Read with Rule 40 of APGST Rules against the order of the Sales Tax Appellate Tribunal, Hyderabad. in T.A.No. 419 of 2004, dt. 2-09-2009 .

Between:

M/s. MAHA RASTRA APEX CORPORATION LIMITED, 2nd Floor, Vasavi Towers, 3-6-98, Main Road, West Marredpally, Secunderabad – 500 026

...PETITIONER

AND

State Of Andhra Pradesh, Represented by the State Representative before STAT Hyderabad.

...RESPONDENT

Counsel for the Petitioner: SRI. Y. SRINIVASA MURTHY, SENIOR COUNSEL REPRESENTING SRI M. V. B. S. NARASIMHA ANUDEEP

Counsel for the Respondent: SRI SWAROOP OORILLA , SPECIAL GOVT. PLEADER FOR STATE TAX

T.R.E.V.C. No. 34 of 2010

Tax Revision is filed under Section 22(1) of APGST ACT Read with Rule 10 of APGST Rules against the order of the Sales Tax Appellate Tribunal, Hyderabad in T.A.No. 420 of 2004, dt. 2-09-2009 .

Between:

M/s. MAHA RASTRA APEX CORPORATION LIMITED, 2nd Floor, Vasavi Towers, 3-6-98, Main Road, West Marredpally, Secunderabad – 500 026

...PETITIONER

AND

State Of Andhra Pradesh, Represented by the State Represer t tive before STAT Hyderabad. ...RESPONI ENT

Counsel for the Petitioner: SRI. Y. SRINIVASA MURTHY, SE NIOR COUNSEL REPRESENTING SRI M. V. B. S. NARA SIMHA ANUDEEP

Counsel for the Respondent: SRI SWAROOP OORILLA , SI ECIAL GOVT. PLEADER FOR STATE TAX

The Court made the following COMMON ORDER:

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

TREVC.Nos.7 and 34 of 2010

COMMON ORDER: *(Per the Hon'ble Sri Justice Suddala Chalapathi Rao)*

Though these Tax Revision Cases arise out of separate assessment orders, since the petitioner and the *lis* involved, are one and the same, they are being heard together and disposed of by this common order.

2. These Tax Revision Cases are filed by the petitioner/assessee assailing the orders passed by the learned Sales Tax Appellate Tribunal, Andhra Pradesh at Hyderabad (for short 'the STAT') in TA.No.419 and 420 of 2004, dt.02.09.2009, relating to the assessment years 1995-96 and 1996-97, respectively.

3. The facts in brief are that, the petitioner/assessee is engaged in the business of hire purchasing and leasing and is registered on the rolls of Commercial Tax Officer, Marredpally Circle, Secunderabad (for short 'the Assessing Authority') under the provisions of APGST Act, 1957 (for short 'the Act'), and the

Assessing Authority, by order, dt.16.11.1998, granted exemption towards second sales turnover for 1995-96 based on the details furnished by it.

4. Subsequently, invoking power under Section 14(4) of the Act, the Assessing Authority reopened the assessment, issued a pre-assessment notice, and by orders, dt.21.01.2000, for both the assessment years disallowed the exemptions and fixed tax liability on the assessee.

5. Assailing the said orders, the assessee filed appeals before the Appellate Deputy Commissioner (CT), Punjagutta Division, Hyderabad (for short 'the appellate authority') *vide* Appeal Nos. 542/1999-2000 and 543/1999-00 and the said appeals were allowed by the appellate authority *vide* orders dt.23.02.2000, restoring the exemption granted by the assessing authority in the first assessment orders.

6. Subsequently, the Additional Commissioner (CT), Legal, (for short 'the revisional authority'), exercising powers under Section 20(2) of the Act issued notice proposing to revise the orders passed by the appellate authority for both assessment years, and

thereafter, following due procedure, revised the orders passed by the appellate authority *vide* orders, dt.19.02.2004.

7. The appellant/assessee has challenged the said revisional orders before the learned STAT *vide* TA.No.419 and 420 of 2004, and the learned STAT after appreciating the evidence on record has confirmed the orders passed by the revisional authority, and assailing the same, the present tax revision cases are filed.

8. The following are the substantial questions of law(consolidated in both cases), which fell for consideration before us:

a) The order of the Sales Tax Appellate Tribunal is contrary to law, material on record, unjust and unsustainable and its order is wholly vitiated thereby.

b) The Tribunal failed to consider the case of the assessee in the correct perspective and in the light of the principles laid down in the decided cases and its order is wholly vitiated thereby.

c) The Tribunal failed to see that the Additional Commissioner (CT) Legal, Hyderabad erred in re-assessing the original assessment for the year 1995-96 where under the exemptions were granted by the Authority without any perusal of the entire material, including the written arguments available on record.

d) The Tribunal failed to see that orders relating to the transactions of the years 1995-96 without any fresh enquiries as to ascertainment of the identification, genuineness and existence of the dealers in 1998-99 and

1999-2000 are unreasonable and dehors ng the said enquiries and the material and to the said el ect the order of re-assessment is wholly vitiated thereby.

e) The Tribunal failed to see that th Additional Commissioner (CT) Legal, Hyderabad, e red in re-assessing the original assessment for the ear 1995-96 where under the exemptions were gra ted by the Authority without any perusal of the en re material, including the written arguments available on ecord.

f) The Tribunal failed to see that the a sessee filed documentary evidence for the entire turno er and it is factually wholly incorrect to observe that the assessee did not do so.

9. We have heard the arguments of Sri Y.Sr nivasa Murthy, learned Senior Counsel representing Sri M.V .B.S.Narasimha Anudeep, counsel for the petitioner/assessee, a d Sri Swaroop Oorilla, learned Special Government Pleader for State Tax appearing for respondent/Revenue.

10. The contention of the learned Senior Couns l appearing for the petitioner/assessee, based on the above subs ntial questions of law, is of twofold.

11. *Firstly,* it was contended that the revisional a thority's order, dt.19.02.2004, is barred by limitation, as the as essment order passed by the assessing authority was on 21.01.20 00, and under Section 20(2) of the Act, the period of limitation for evision is four

years. Hence, the revision made is beyond the said period, as such the revision is barred by limitation and liable to be set aside.

12. *Secondly,* it was contended that while exercising powers under Section 20(2), the revisional authority failed to consider the written submissions along with voluminous documentary evidence produced by the petitioner, showing that tax had already been paid by the first registered dealers on the disputed turnover relating to second sales and erroneously, reversed the well-considered findings of the first Appellate Authority. Further, the learned STAT has not appreciated the documents filed before it showing the payment of tax by the first registered dealers. Thus, it is contended that both the impugned orders of the learned STAT and the order of the revisional authority under Section 20(2) of the Act are liable to be set aside.

13. *Per contra,* Sri Swaroop Oorilla, learned Special Government Pleader for State Tax appearing for respondent/Revenue submitted that the revisional authority revised the orders of the appellate authority, dt.23.02.2000, but not the original assessment orders, as contended by the learned counsel for the petitioner, and therefore, the revision orders passed on

19.02.2004, is within the four years limitation prescribed under Section 20(2) of the Act and as such the contention of the learned Senior Counsel is untenable.

14. It was further submitted that the petitioner failed to prove its claim of exemption on the alleged second sales by placing documentary evidence showing the payment of tax at the first point of sale by the registered dealer and contended that the findings of the learned STAT and the revisional authority are justified, well founded and needs no interference by this Court.

15. Learned Special Government Pleader further contended that if the petitioner/assessee's claim was genuine, they would have produced documents or evidence before this Court to substantiate their claim that the goods purchased by it had already suffered tax at the first point of sale by registered dealers, thus entitling them to exemption on second sales. The failure on the part of the petitioner/assessee in doing so would clinchingly prove that there is no evidence to substantiate their claim that tax was collected from the first registered dealers and thus, prayed to dismiss the revision cases.

16. **We have given earnest consideration to the submissions made by the counsel on either side and perused the record.**

17. Coming to the first contention that the revisional orders, dt.19.02.2004 being barred by limitation, for convenience sake, Section 20 of the Act is extracted hereunder:

> **"20 - Revision by (Commissioner of Commercial Taxes) and other prescribed authorities.**
>
> (1) The (Commissioner of Commercial Taxes) may suo motu call for and examine the record of any order passed or proceeding recorded by any authority, officer or person subordinate to it, under the provisions of this Act, including sub section (2) of this section and if such order or proceeding recorded is prejudicial to the interests of revenue, may make such enquiry, or cause such enquiry to be made and subject to the provisions of this Act, may initiate proceedings to revise, modify or set aside such order or proceeding and may pass such order in reference thereto as it thinks fit.
>
> (2) Powers of the nature referred to in sub section (1) may also be exercised by Additional Commissioner, or the joint Commissioner, Deputy Commissioner or Assistant Commissioner and the Commercial Tax Officer in the case of orders passed or proceedings recorded by authorities, officers or persons subordinate to them.
>
> (2-A) The power under sub section (1) or sub section (2) shall not be exercised by the authority specified therein in respect of any issue or question which is the subject matter of an appeal before, or which was decided on appeal by, the Appellate Tribunal under Section 21.
>
> (3) In relation to an order of assessment passed under this Act, the powers conferred by sub sections (1) and (2) shall be exercisable only within such period not exceeding four years from the date on which the order was served on the dealer, as may be prescribed.
>
> (4) No order shall be passed under sub section (1) or sub section (2) enhancing any assessment unless an

opportunity has been given to the assesse to show cause against the proposed enhancement.

(5) Where an order passed under this sectio has been set aside by any Court or other competent auth rity under this Act for any reason) the period between th e date of such order and the date on which it has been se set aside shall be excluded in computing the period of four years specified in sub section (3) for the purpose of m aking a fresh revision, if any, under this section.

(6) Where any proceeding under this section ha been deferred on account of any stay order granted b y the Special Appellate Tribunal in any case, or by reason of the fact that an appeal or other proceeding is pending be ore the Special Appellate Tribunal or the Supreme Cou t involving a question of law having a direct bearing o the order or proceeding in question, the period during w hich the stay order was in force or such appeal or p oceeding was pending shall be excluded in computing the period of four years specified in this section for the purpose s of exercising the power under this Section

18. From a perusal of the record it is clear th at the revisional authority has revised the orders of the Ap pellate Deputy Commissioner, dt.23.02.2000, as such the period of limitation will start from 23.02.2000 and the revisional orders dt.19.02.2004, passed under Section 20(2) of the Act, are well with in the four year limitation period prescribed under Section 20(3) of the Act. Therefore, the plea of limitation raised by the learned Senior Counsel for the petitioner is untenable and rejected

19. Coming to the second contention of the earned Senior Counsel for the petitioner that, in spite of the pe itioner placing

voluminous documents in support of its claim for exemption on second sales, as the goods suffered tax at the point of first sale, the same has not been considered, a perusal of the orders of the revisional authority as well as the learned STAT indicate that both the authorities, who are fact finding authorities after detailed examination of the records placed before it, have categorically held that the first registered dealers, from whom the petitioner claimed to have purchased the goods, on verification, were found to be non-existent and unidentifiable and that the tax details of the alleged first dealers were also not produced by the petitioner to justify its claim for exemption.

20. As rightly contended by the learned Special Government Pleader for respondent/Revenue that, had the petitioner possessed relevant material/documents to prove that the goods were purchased from registered dealers, who had already paid tax, such evidence could have been produced before the revisional authority or the learned STAT, or at least before this Court, and failure to do so, at all the stages, further weakens the petitioner's contention that relevant material was not appreciated by the revisional authority as well as the learned STAT.

21. Hence, the contention of the learned counsel for the revision petitioners that the revisional authority and the learned STAT failed to appreciate the material placed before them, appears to be untenable, more so, when both the fact finding authorities have concurrently held that the payment of tax at first point of sale by the registered dealer is doubtful and not genuine.

22. Thus, this Court finds no force in the submission of the learned Senior Counsel for the petitioner that the goods had already suffered tax at the first point of sale by the registered dealers and the said contention of the petitioner was rightly disbelieved and rejected by the learned STAT and the revisional authority.

23. In view of the above findings, we find no infirmity or illegality in the concurrent findings of the revisional authority and the learned STAT, warranting interference of this Court. The substantial questions of law are answered against the petitioner/assessee and in favour of the respondent/Revenue.

24. Accordingly, both the Tax Revision Cases are dismissed. No order as to costs.

As sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

Sd/- Sd/- K.SHYLESHI
JOINT REGISTRAR

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SECTION OFFICER

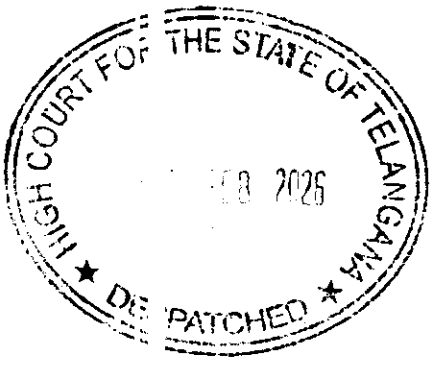
To

1. The Sates Tax Appellate Tribunal, Hyderabad.
2. The Deputy Commissioner (CT), Punjagutta Division, Hyderabad
3. The Addl. Commissioner (CT), (Legal) Commissioner of Commercial Taxes, Hyderabad
4. The Commercial Tax Officer, Marredpally Circle, Secunderabad.
5. One CC to SRI. M V B S NARASIMHA ANUDEEP, Advocate [OPUC]
6. One CC to Sri SWAROOP OORILLA, Special Govt. Pleader for State Tax, High Court for the State of Telangana at Hyderabd.
7. Two CD Copies

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HIGH COURT

DATED:01/12/2025



COMMON ORDER

TREVC.Nos.7 & 34 of 2010

DISMISSING THE BOTH TAX REVISION CASES

WITHOUT COSTS

ASM
19/12/25