(1996) 07 AP CK 0067

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 195 of 1988

C. Sathiraju and Sons — APPELLANT

Vs

State of Andhra Pradesh — RESPONDENT

Date of Decision : 01-07-1996

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 14(4)

Citation : (1998) 111 STC 703

Hon'ble Judges : S.S. Mohammed Quadri, J;B. Sudershan Reddy, J

Bench : Division Bench

Judgement

Syed Shah Mohammed Quadri, J.—In Girdharlal and Company Vs. State of Andhra Pradesh, a Division Bench of this Court of which one of us (Syed Shah Mohammed Quadri, J.) was a party, laid down the principle for making reassessment u/s 14(4) of the Andhra Pradesh General Sales Tax Act, 1957 (for short, "the Act"); it was held that if necessary material was available on record but the assessing authorities had not adverted to the relevant aspects due to lack of diligence, it would not afford a ground to the assessing authority or his successor to exercise power u/s 14(4) but if the record did not contain the relevant material which come to the notice of the authority from other sources after the assessment, then it would afford a justifiable ground to exercise power u/s 14(4). It was observed that lack of diligence on the part of the assessing authority at the initial assessment time was not the real criteria but lack of material at the time of assessment which was made good subsequently was the basis that would justify the exercise of power under that section. The ratio laid down therein would squarely apply to the facts of this case and following the same this tax revision case will have to be allowed.

2. The Sales Tax Appellate Tribunal, whose order dated January 21, 1988 in T.A. No. 711 of 1987, is under revision before us, in dealing with the question whether the reassessment u/s 14(4) of the Act was without jurisdiction, upheld the reassessment observing that the authority had power u/s 14(4) to make

reassessment because part of the turnover escaped assessment. This, in our view, is an erroneous view of law.

3. The petitioner-assessee is a dealer in firewood. Though he showed his gross turnover in the year 1984-85 as Rs. 11,48,245.15, the net turnover liable to tax is shown as "Nil". This was accepted by the Commercial Tax Officer and an order of assessment was accordingly passed on May 14, 1985. The successor in office while going through the accounts of the petitioner for the assessment year 1984-85 held that a sum of Rs. 95,330 escaped assessment and accordingly passed order of reassessment on August 22, 1986 which was upheld by the Appellate Deputy Commissioner on February 5, 1987. It was that order of the Appellate Deputy Commissioner which was assailed before the Sales Tax Appellate Tribunal.

4. On the facts, above stated, it is clear that no fresh material de hors the material available at the time of the first assessment, came to the notice of the successor in office. It might be that there had been lack of proper case and non-application of mind by the assessing authority at the stage of passing the order of assessment but that, in our view, would not justify exercise of power u/s 14(4) of the Act. We, therefore, cannot sustain the order under revision. It is accordingly safe aside.

The tax revision case is allowed but in the circumstances of the case without costs.

5. Petition allowed.

