(1996) 06 AP CK 0066

In the Andhra Pradesh High Court

Case No : Tax Revision Case No''s. 98 and 101 of 1998

Kanakadurga Manure Works APPELLANT

Vs

State of Andhra Pradesh RESPONDENT

Date of Decision : 25-06-1996

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

Citation : (2003) 133 STC 147

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

Bench : Division Bench

Advocate : P. Srinivasa Reddy, for the Appellant; The Special Government Pleader for Taxes, for the Respondent

Final Decision : Allowed

Judgement

Syed Shah Mohammed Quadri, J.—The only point which is agitated in these tax revision cases is whether there is fresh material for the successor-assessing authority to issue the notice. The assessing authority issued a show-cause notice dated March 9, 1981 as to why the turnover of Rs. 12,61,419.86 being the purchase value of raw bones, should not be taxed u/s 6-A of the Andhra Pradesh General Sales Tax Act. This was on the ground that the purchases were made from unregistered dealers. The petitioner filed his objection. Thereafter, the proceedings were dropped. The same turnover was sought to be taxed by the successor-assessing authority. The correctness of that order was questioned before the Appellate Deputy Commissioner in appeal, but the appeal was dismissed. So also the second appeal by the petitioner before the Sales Tax Appellate Tribunal was unsuccessful as the same was dismissed on September 28, 1987.

2. The question raised is covered by a decision of this Court in Girdharlal and Company Vs. State of Andhra Pradesh, . We make it clear that for purposes of exercising the power u/s 14(4) of the Act, what is required to be seen is not whether the earlier order of the assessing authority was correct in law but

whether there was fresh material justifying interference. If there is no fresh material, no subsequent assessment should be made even though the earlier order was erroneous in law.

3. The order of the Tribunal is set aside and the tax revision cases are accordingly allowed.