(1976) 08 AP CK 0001

In the Andhra Pradesh High Court

Case No : Tax Revision Petition No. 50 of 1976

M. Ramakrishnaiah and Co. APPELLANT

Vs

State of Andhra Pradesh RESPONDENT

Date of Decision : 03-08-1976

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 20, 20(3)

Citation : (1976) 38 STC 537

Hon'ble Judges : B.J. Divan, C.J;Muktadar, J

Bench : Division Bench

Advocate : S. Dasaratharama Reddi, for the Appellant; The Government Pleader for Commercial Taxes, for the Respondent

Final Decision : Allowed

Judgement

B.J. Divan, C.J.—The matter is before us at the admission stage and we have admitted the appeal today. Mr. Sastry, the learned Government Pleader, takes notice and the matter has been argued before us. In this case, the Deputy Commissioner in exercise of his powers u/s 20 of the Andhra Pradesh General Sales Tax Act, revised the order of the Commercial Tax Officer. The Deputy Commissioner passed the order on 6th January, 1973. But the order of revision was served upon the assessee only on 21st November, 1973. It was urged in the appeal against the order of the Deputy Commissioner when the matter was argued before the Sales Tax Appellate Tribunal that the order passed by the Deputy Commissioner was not within the period of limitation laid down by Section 20. We have, by our judgment today in Khetmal Parekh and Co. v. State of A.P. [1976] 38 S.T.C. 531, (T.R.C. No. 1 of 1976), considered a similar argument and rejected the argument and, therefore, to that extent the order of the Tribunal regarding the period of limitation prescribed u/s 20(3) was correct.

2. However, in view of the delay which has taken place between the passing of the order of revision by the Deputy Commissioner on 6th January, 1973, and the service of that order on the assessee on 21st November, 1973, it must be held,

on the facts of this case, that the delay that took place was unreasonable and inordinate.

3. Again, as in that case, as we have pointed out in our judgment in Khetmal Parekh and Co. v. Stats of A.P. [1976] 38 S.T.C. 531, (T.R.C. No. 1 of 1976) on the ground of unreasonable delay in the service of the order of the Deputy Commissioner, each case must be judged on its own facts and, in our opinion, the delay of more than ten months in serving the order of revision is certainly unreasonable and inordinate. The Tribunal has pointed out that normally notices are served upon the parties within one week and there is no reason why a period of ten and a half months should elapse before the order of the Deputy Commissioner is served upon the assessee concerned. On this ground, therefore, this revision is allowed and the order of the Sales Tax Appellate Tribunal is set aside. In view of the fact that this point was not urged before the Sales Tax Appellate Tribunal, there will be no order as to costs. In view of the decision regarding the inordinate delay we are not dealing with the other contentions which have been put forth in the revision. Advocate''s fee Rs. 250.

