
(1975) 04 AP CK 0022

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 25 of 1975

M. Ramesh and Co.

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 03-04-1975

Acts Referred:

Andhra Pradesh General Sales Tax Act, 1957 — Section 3, 3(3)(a)(iii)

Citation : (1975) 36 STC 439

Hon'ble Judges : A. Sambasiva Rao, Acting C.J.; Jayachandra Reddy, J

Bench : Division Bench

Advocate : S. Dasaratharama Reddi, for the Appellant;

Final Decision : Dismissed

Judgement

A. Sambasiva Rao, Ag. C.J.

1. In this tax revision case, Sri Dasaratharama Reddi has raised a very ingenious contention that a Bench of the Sales Tax Appellate Tribunal consisting of two members, including the Chairman, cannot hear and dispose of an appeal before it, as it is contrary to Section 3 of the Andhra Pradesh General Sales Tax Act. Since a Bench consisting of the Chairman and one of the members alone heard the appeal, the Bench was wrongly constituted and the decision by it is void and a nullity.

2. This contention was not raised before the Tribunal. That apart, we find no merits at all in this contention. If we go through the scheme of Section 3, which deals with "Appellate Tribunal", it is manifest that whenever the Chairman is available and present, he should constitute the Benches. That is why Sub-section (3)(a) prescribes the manner of functioning of the Appellate Tribunal in the following manner. All the members of the Appellate Tribunal can dispose of an appeal. That means, the Chairman also will be a member of the Bench. Next, the appeal can be disposed by a Bench consisting of two members constituted by the Chairman. Thirdly, It can be heard by a Bench consisting of the Chairman and

another member as constituted by the Chairman. It is thus seen that the Chairman is given power to constitute the Benches. He can constitute a Bench consisting of all the members including himself or of any two members excluding himself, or of two members Including himself. That is in the discretion of the Chairman, but the point is that the Chairman alone should constitute these Benches. The same thing is reiterated in Clause (iv) of Sub-section (3)(a), which empowers the Chairman to empower a single member to hear cases where the turnover does not exceed Rs. 20,000. Once again, it is the Chairman that is given the power to constitute the Bench and its strength. Sub-clause (iii-a) introduced in 1974 says that when a Chairman is absent on leave or transfer or in the case of the office being vacant, the case can be heard by a Bench consisting of the other two members. It is obviously added for filling up the lacuna to meet the contingency of the Chairman being absent. If he is present, it is his privilege and power to constitute Benches. One of such Benches can consist of himself and one of the members as provided by Sub-section (3)(a)(iii).

3. Now, coming to the facts of the case, the appeal was heard by a Bench consisting of the Chairman and another member. When the Chairman himself was present and is a member of the committee, that means he has constituted that Bench. Therefore, it is perfectly in accordance with Section 3(3)(a)(iii). This shows that the contention of Sri Dasaratharama Reddi is wholly untenable.

4. The other questions raised by the learned counsel are only questions of fact which do not warrant interference in a tax revision case. Consequently, the tax revision case is dismissed.