(1996) 10 AP CK 0035

In the Andhra Pradesh High Court

Case No : Writ Petition No. 6264 of 1996

Sarvaraya Textiles Limited APPELLANT

Vs

Commercial Tax Officer, Kakinada RESPONDENT

Date of Decision : 10-10-1996

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 33

Citation : (1998) 109 STC 232

Hon'ble Judges : T.N.C. Rangarajan, J;M.N. Rao, J

Bench : Division Bench

Advocate : A.K. Jaiswal, for the Appellant; Government Pleader for Commercial Taxes, for the Respondent

Judgement

M.N. Rao, J.—The appeals preferred by the petitioner-assessee were allowed by the Sales Tax Appellate Tribunal in T.A. Nos. 717 and 718 of 1993 on January 30, 1995 in respect of the assessment years 1982-83 and 1983-84. The petitioner-assessee is, therefore, entitled for interest u/s 33-F of the Andhra Pradesh General Sales Tax Act with effect from July 29, 1995 at the rate of 12 per cent simple interest on the amount he is entitled to refund pursuant to the order of the Sales Tax Appellate Tribunal in the aforesaid appeals. It is brought to our notice that against the common order made by the Appellate Tribunal in the above appeals on January 30, 1995, an application seeking condonation of delay for the purpose of filing a tax revision case was dismissed by a Division Bench of this Court on August 7, 1996 in C.M.P. No. 3272 of 1996 in T.R.C. S.R. No. 2104 of 1996. It is, therefore, clear that in respect of the other appeal, no T.R.C. can be filed even with an application seeking condonation of delay. In the circumstances, we are of the view that this writ petition for issuance of a writ of mandamus or direction to the 1st respondent to refund the amount, the petitioner is entitled to, by virtue of the judgment of the Sales Tax Appellate Tribunal dated January 30, 1995 must succeed. The writ petition is accordingly allowed and a writ of mandamus will issue directing the first respondent to refund the amount due to the petitioner-assessee, as per the judgment of the

Sales Tax Appellate Tribunal in T.A. Nos. 717 and 718 of 1993 dated January 30, 1995 with simple interest at the rate of 12 per cent per annum, calculated from July 29, 1995 till the date of payment. The above amount shall be paid as expeditiously as possible, in any event, not later than three months from today. No costs.

2. Writ petition allowed.

