
(1971) 07 AP CK 0007

In the Andhra Pradesh High Court

Case No : Tax Revision Petition No's. 63 and 64 of 1970

The State of Andhra Pradesh

APPELLANT

Vs

Polireddi Satyanarayana and Another

RESPONDENT

Date of Decision : 12-07-1971

Acts Referred:

Andhra Pradesh General Sales Tax Act, 1957 — Section 14(4), 20

Citation : (1972) 29 STC 512

Hon'ble Judges : Venkateswara Rao, J;Obul Reddi, J

Bench : Division Bench

Advocate : Government Pleader for sales tax cases, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

Obul Reddi, J.—The main question that arises in these two revisions is whether the Tribunal has correctly construed the scope of Sub-section (4) of Section 14 of the A.P. General Sales Tax Act. The Tribunal was of the view that apart from the class of cases referred to by it in its order, the assessing officer cannot exercise his jurisdiction under Sub-section (4) of Section 14. In the words of the Tribunal:

He has only the power to correct any mistake made by him in computing the turnovers or/and of making additional assessments where any new evidence is brought to his notice or is found in the records to which he had not adverted his mind.

2. These three circumstances, according to the Tribunal, are not present in these two cases and therefore the assessing authority was not justified in exercising its jurisdiction under Sub-section (4) of Section 14 of the Act.

3. To appreciate the question involved, it is necessary to state the relevant facts leading up to the filing of this revision. The assessee is a dealer in palmyra jaggery and he was finally assessed for the year 1963-64 on a net turnover of Rs. 17,143.76 by the Deputy Commercial Tax Officer, Nidadavole. During that

assessment year jaggery was taxable at purchase point up to 31st July, 1963, and at sale point from 1st August, 1963. The mistake committed by the assessing authority consisted in not applying the correct rate for the abovesaid two periods. The turnover as disclosed in the accounts showed purchases up to 31 st July, 1963, Rs. 71,354.13, and sales from 1st August, 1963, to 31st March, 1964, Rs. 81,105.71. A notice was, therefore, issued to show cause why the assessee should not be finally assessed to tax on the basis of the purchases made up to 31st July, 1963, and sales made thereafter up to 31st March, 1964. After considering the explanation, the assessing authority held that the turnover relating to sale of jaggery, Rs. 81,105.71, was not again taxable as tax was already paid in respect of this commodity at the purchase point. The assessing authority therefore determined the taxable turnover at Rs. 71,354.13 and levied tax at 3 per cent., the rate that is applicable. That order was carried in appeal and it was contended before the Assistant Commissioner that palmyra jaggery is not jaggery and therefore purchases of the commodity made prior to 1st August, 1963, are not exigible to tax. The Assistant Commissioner rejected the contention observing that whether jaggery is manufactured from sugarcane or from palmyra juice, it is jaggery and jaggery as understood in popular parlance takes in palmyra jaggery as well as jaggery produced from sugarcane. As regards the competence of the assessing authority, he held that Sub-section (4) of Section 14 of the Act empowers him to make a reassessment, when the assessment originally made is made at a lower rate than what is provided for. The Tribunal did not agree with the Assistant Commissioner that the assessing authority could exercise his powers except in cases referred to by it in its order to which we have already made a reference.

4. Section 14(4) of the A.P.G.S.T. Act reads :

In any of the following events, namely, where the whole or any part of the turnover of business of a dealer has escaped assessment to tax, or has been under-assessed or assessed at a rate lower than the correct rate, or where the licence fee or registration fee has escaped levy or has been levied at a rate lower than the correct rate, the assessing authority may, after issuing a notice to the dealer, and after making such enquiry as he may consider necessary, by order, setting out the grounds therefore, -

- (a) determine to the best of his judgment the turnover that has escaped assessment and assess the turnover so determined ;
- (b) assess the correct amount of tax payable on the turnover that has been under-assessed;
- (c) assess at the correct rate the turnover that has been assessed at a lower rate ;
- (d) levy the licence fee after determining to the best of his judgment the turnover on which such fee is payable;

(e) levy the registration fee that has escaped levy; or

(f) levy the correct amount of licence fee or registration fee in a case where such fee has been levied at a rate lower than the correct rate.

5. This section confers wide powers upon the assessing authority to make a reassessment if the circumstances referred to in the provision exist. He can make a reassessment where the whole or any part of the turnover escapes assessment to tax or if he fails to assess it correctly and makes under-assessment or assesses the turnover at a lower rate and not at the rate prescribed. In these cases, the reassessment has been made as the correct rate has not been applied to the turnover. That the correct rate has not been applied is borne out by the material on record. When it is shown that the purchases made by "the assessee up to 31st July, 1963, come to Rs. 71,354.13 and tax has not been levied on that turnover at the rate. prescribed, we are unable to understand how it could be construed as a case where the assessing authority has exceeded his powers under Sub-section (4) of Section 14. The Tribunal seems to be under the erroneous impression that that power could be exercised by a higher authority u/s 20 of the Act and not by the assessing authority.

6. It is obvious that there was a mistake in applying the correct rate of tax at the point of purchase during the relevant period and therefore it became necessary on the basis of the admitted facts to make a correct assessment in accordance with the provisions which prescribe the rate of tax and at which point and from what date. The cases relied upon by the Tribunal in its order have absolutely no relevance or application to the facts presented before it. The Tribunal is in error in holding that the assessing authority has power under Sub-section (4) of Section 14 to correct only when any new or additional material is brought to his notice which was not adverted to when he first made the assessment. Sub-section (4) provides also for reassessment at the correct rate, provided the turnover has been assessed at a lower rate and when the material made available in this case leads only to one conclusion that the turnover has been assessed at a lower rate, we fail to understand how the Tribunal could construe that Sub-section (4) of Section 14 is not attracted. The Tribunal was thus in error in holding that the mistake that had arisen in these two cases could be corrected only by a higher authority as provided for in Section 20 and not by the original authority.

7. In the circumstances, the order covering these two revisions is set aside and the revisions are allowed. No costs. Advocate's fee Rs. 100 in each.