

In Re: State of Andhra Pradesh

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Court : Andhra Pradesh

Decided On : Mar-29-1982

Reported in : [1983]54STC132(AP)

Judge : K. Madhava Reddy, Ag. C.J and ;P. Ramachandra Raju, JJ.

Acts : Andhra Pradesh General Sales Tax Act - Sections 20, 20(1) and 20(2)

Appeal No. : Tax Revision Case Nos. 7, 9 and 10 of 1982

Appellant : In Re: State of Andhra Pradesh

Advocate for Pet/Ap. : The Government Pleader for Commercial Taxes

Judgement :

Madhava Reddy, Ag. C.J.

1. In these tax revision cases the question of law that is raised is whether in view of the language used in Section 20(1) and (2) of the Andhra Pradesh General Sales Tax Act (hereinafter called the Act), the Deputy Commissioner can exercise his powers of revision under section 20(2) of the Act on an application made by an assessee. It is true that section 20 of the Act speaks of the power of the Commissioner of Commercial Taxes to call for and examine the record of any order passed or proceeding recorded by any authority suo motu. It does not expressly make a provision for filing of an application, much less, an application by way of revision, by any aggrieved party. None the less, if an application is filed,

though it may not be treated as an application for revision of the order of an authority subordinate to the Commissioner, the Commissioner having, on such application, come to know of the facts of a particular case being dealt with or disposed of by the subordinate authority may suo motu act and exercise the power under section 20. The mere fact that an application is filed by an aggrieved party, the power to act suo motu in respect of any proceeding taken by the subordinate authority to the Commissioner, is not divested from the Commissioner. Exercise of suo motu powers does not imply that the Commissioner cannot look into any application forwarded to him and refuse to call for the records. If such a contention is accepted, then he cannot exercise that power and call for records. Without calling for the records, there will be no material on the basis of which he could exercise suo motu power undoubtedly vested in him. If the Commissioner has to have some material to exercise the jurisdiction vested in him under section 20 of the Act suo motu, that material could, as well be, what is contained in the application filed by the aggrieved party. What section 20 in our opinion lays down is that while no aggrieved party has any right to file a revision petition under section 20, the Commissioner of Commercial Taxes could suo motu exercise the revision powers and call for and examine records of any order or proceeding taken by the authority subordinate to him. In that view of the matter no question of law arises in these cases. It was however argued that the Sales Tax Appellate Tribunal has no jurisdiction to direct the Deputy Commissioner to exercise the revisional jurisdiction. Such a contention was not raised before the Tribunal nor was any decision taken by it. That question of law therefore does arise in these tax revision cases. These tax revision cases are dismissed. Advocate's fee Rs. 150 in each.

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