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In Re: Talupula Narayanaswamy

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Court : Andhra Pradesh

Decided On : Jul-27-1961

Reported in : [1962]13STC595(AP)

Judge : P. Chandra Reddy, C.J. and ;Chandrasekhara Sastry, J.

Appeal No. : Tax Revision Case No. 51 of 1961

Appellant : In Re: Talupula Narayanaswamy

Advocate for Pet/Ap. : N. Rajeswara Rao and ; M.S.R. Sastry, Advs.

Disposition : Revision dismissed

Judgement :

Chandra Reddy, C.J.

1. The only point raised in this tax revision case is as to the starting period of limitation of three years prescribed by Rule 17 of the Madras General Sales Tax Rules, 1939. It is contended by Sri Rajeswara Rao, learned counsel for the petitioner, that the period of three years should be computed from the beginning of the assessment year and not from the end of that year. The answer to this contention turns upon the interpretation of Rule 17, which is as under:

(I) If for any reason the whole or any part of the turnover of business of a dealer or licensee has escaped assessment to the tax in any year or if the licence fee has

escaped levy in any year, the assessing authority or licensing authority, as the case may be, subject to the provisions of Sub-rule (1-A), may, at any time within three years next succeeding that to which the tax or licence fee relates, determine to the best of his judgment the turnover which has escaped assessment and assess the tax payable on such turnover or levy the licence fee, after issuing a notice to the dealer or licensee and after making such enquiry as he considers necessary.* * *

2. It is manifest from the language of this rule that limitation commences only from the end of the assessment year and not from the commencement thereof. It is not disputed that the assessment could be made at any time within the end of that year.

3. It was next urged by Sri Rajeswara Rao that Rule 17 is beyond the rule-making power of the State Government derived from Section 19(2) (f) of the Act. Section 19, in so far as it is material for the present enquiry, reads:

(1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

* * *(f) the assessment to tax under this Act of any turnover which has escaped assessment, and the period within which such assessment may be made, not exceeding three years.

4. The point sought to be made by Sri Rajeswara Rao was that this clause enables the Government to make a rule providing for limitation of three years from the beginning of the assessment year and not from the end of that year. This argument is founded on the language of the clause 'the period within which such assessment may be made.' The learned counsel urges that this expression connotes 'the commencement of the assessment year' and not 'the end of the assessment year'. We do not think that we can accede to this proposition. This rule clearly indicates that the period will be three years from the time when the assessment could have been made. Indisputably, the assessment could be made

before 31st March, 1955, for the assessment year 1954-55. If that were so, it is futile to contend that limitation starts from the beginning of the assessment year itself. We are not convinced that Rule 17 is in any way repugnant to Section 19(2)(f) of the Madras General Sales Tax Act, 1939. As such, it cannot be said that the rule is in excess of the rule-making power of the Government. This contention fails.

5. No other point is argued before us. In the result, the tax revision case is dismissed.

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