

**HON'BLE SRI JUSTICE RAVI NATH TILHARI  
AND  
HON'BLE SRI JUSTICE HARINATH. N**

**T.R.E.V.C. No.203 OF 2009**

19.03.2024

The State of A.P., rep. by the  
State Representative before  
STAT, Hyderabad

.....Petitioner

And:

M/s. Sri Venkata Sai Ram  
Traders, Kurnool

....Respondent.

Counsel for the petitioner : Sri Shreyas Reddy

Counsel for the respondent : Sri S. Dwarakanath.

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**

**AND**

**THE HON'BLE SRI JUSTICE HARINATH. N**

**T.R.E.V.C. No.203 OF 2009**

**JUDGMENT:-** (per Hon'ble Sri Justice Ravi Nath Tilhari)

1. Heard Sri Shreyas Reddy, learned Government Pleader for Commercial Tax appearing for the petitioner.
2. This tax revision case has been filed by the State of A.P challenging the order dated 05.03.2009, passed by the Sales Tax Appellate Tribunal, Andhra Pradesh in T.A.No.1453 of 2004.
3. The respondent M/s. Sri Venkata Sai Ram Traders, Kunool is on the rolls of Commercial Tax-I, Kunool and is dealers in ground nuts and its by products.
4. The Commercial Tax Officer passed the final assessment order for the assessment year 1998-99, dated 18.03.2000 under the Andhra Pradesh Goods and Services Tax Act, 2017 (for short, "the APGST Act, 2017"), determining the net turnover, after granting exemption out of gross turnover, of Rs.7,72,09,745.00 being taxable.

5. The respondent assessee filed Appeal No.98 of 2000-2001 disputing the setoff of tax of Rs.45,749/-. The appeal was dismissed by the Appellate Deputy Commissioner, Commercial Tax, Kunool vide order dated 08.03.2001.

6. The appellate authority held that in view of G.O.Ms.No.415 Revenue C.T (II) Department dated 17.05.1997, the amount of tax payable on oil-seeds shall be reduced from the tax leviable on the sale of non-refined oil and de-oiled cakes. But not otherwise. In case, the entire tax on oil seeds was considered for setoff, it would be more than the tax on non refined oil and therefore reduction of higher amount from a lower amount was not at all possible and it amounted to negative taxation which did not stand in the eye of law.

7. The respondent assessee filed T.A.No.1453 of 2004 which has been allowed by the Sales Tax Appellate Tribunal, Andhra Pradesh (for short, "STAT")

8. The Sales Tax Appellate Authority held that the G.O.Ms.No.415 dated 17.05.1997 indicated that whatever the tax that was paid by the dealer while purchasing groundnuts when the same ground nuts are processed for extracting oil and when the oil was sold, the tax payable on the sale of oil would

get reduced by the tax paid on the purchase of ground nuts. Hence, whatever the tax that was paid on the oil seeds shall be deducted from the tax payable on the sale of oil. So much so on the sale of oil cakes. Oil cake is nothing but resultant produce, when once the ground nuts and Kernels were decorticated and oil was extracted.

9. S.T.A.T further held that the tax to be deducted shall not exceed the total amount of tax already paid. In view of the Government Orders, the total amount of tax to be reduced shall be limited to the amount of tax paid on the oil seeds or non refined or oil cakes as the case may be. In this respect there could not be any negative taxation, but the entire tax paid shall be given as credit, if it did not exceed the tax payable while calculating the tax payable on the sale of oil.

10. Learned Government Pleader submitted that the following questions of law are raised in the present revision.

- i) Whether G.O.Ms.No.415 revenue C.T (II) Department Dt.17.05.1997 applicable to claim benefit of set-off on de-oiled cakes or not?
- ii) Whether STAT rightly interpreted the above G.O., while calculating the set-off?

11. The learned Government Pleader submitted that the issue is confined to the claim benefit of set-off on de-oiled cakes only.

12. Learned Government Pleader submitted that the G.O.Ms.No.415 dated 17.05.1997 does not relate to the de-oiled cakes but only to the sale of oil. In his submission the benefit of setoff could not be claimed in respect of 'de-oiled' cakes.

13. We have considered the submissions advanced and perused the material on record.

14. The G.O.Ms.No.415 dated 17.05.1997, deserve to be reproduced:

**“G.O.Ms.No.415 Rev (CT-II) Dept Dt.17.05.1997**

**NOTIFICATION**

In exercise of the powers conferred by sub-section (1) of section 9 of the Andhra Pradesh General Sales Tax Act, 1957 (Andhra Pradesh Act VI of 1957, the Governor of Andhra Pradesh, hereby directs that:-

(1) Where on the sale or purchase inside the sale of oil seed, including groundnut, palm seed or peanut, cotton seed, castor and coconut i.e copra excluding tender coconuts tax has been levied and collected under the said Act, and such oil seeds in the manufacture of non-refined oil, the amount of tax paid on such quantity of oil seeds from which the said oil has been obtained, shall be reduced from the tax leviable under Section 5, read with entry 24-A of first schedule of the said Act, in respect of sale inside the state of such non-refined oil.

(2) Where on the sale or purchase inside the state of all vegetable oils (Non-refined), tax has been levied and collected under the said Act, and such non-refined vegetable oils are used in the manufacture of refined vegetable oils, the amount of tax paid on such quantity of non-refined from the tax leviable under Section 5, read with Entry 24B of first schedule of the said Act in respect of sale inside the state of such vegetable oils (Refined).

**(3) Where on the sale or purchase inside the state of all oil cakes tax has been levied and collected under the said Act, and the same are dues in obtaining the de-oiled cake or vegetable as the same may be the amount of the tax paid on such quantity of oil cakes that are used in obtaining De-oiled cake or vegetable oil, shall be reduced from the tax, leviable under section 5, read with entries 29 or 24-A or 24B as the case may be of first schedule of the said Act in respect of sale inside the State of such de-oiled cake or vegetable oil:**

Provided the total amount of tax to be reduced under paras (1), (2), (3) above, shall be limited to the amount of tax paid on oil seeds, or non-refined oil or oil cakes or solvent extract oil as the case may be.

This notification shall be deemed to have come into force with effect from 1.4.1997 and shall be in force upon 31<sup>st</sup> March, 1999 only.

J. Ramababu,

Principal Secretary to Government."

15. The G.O.Ms.No.415 dated 17.5.1997, in para No.3, provides that where on the sale or purchase inside the State of

Andhra Pradesh of all oil cakes, tax has been levied and collected under the APGST Act, 1957, and the same are used in obtaining the de-oiled cakes or vegetable as the case may be, the amount of the tax paid on such quantity of oil cakes that are used in obtaining de-oiled cakes or vegetable oil shall be reduced from the tax levied under Section 5, read with entries 29 or 24-A or 25B as the case may be of the First schedule of the Act, 1957, in respect of sale inside the State of such de-oiled cakes are payable.

16. The proviso to the 3<sup>rd</sup> para of G.O.Ms.No.415, also clearly provides that the total amount of tax to be reduced under paras (1), (2) and **(3)** shall be limited to the amount of tax payable on oil seeds or non refined oil or oil cakes as the case may be.

17. A plain reading of G.O.Ms.No.415 dated 17.05.1997, shows that it also relates to the sale or purchase of the de-oiled cakes. The same benefit of set-off, as available on the refined oil is available, in the case of de-oiled cake as well. The language being plain and unambiguous is not open to any other view.

18. The STAT Appellate Tribunal has rightly held that whatever the tax that was paid on the oil seeds shall be deducted from the tax payable on the sale of oil, so much so on

the sale of oil cakes and that the tax to be deducted shall not exceed the total amount of tax already paid on oil cake.

19. Our answer on the question of law (i) is that G.O.Ms.No.415 dated 17.05.1997 applies also to claim benefit of set-off on de-oiled cakes.

20. Consequently our answer to the (ii) question is that APSTAT has rightly interpreted G.O.Ms.No.415 dated 17.05.1997, while calculating the set-off. The impugned order does not call for any interference.

21. In the result, the T.R.E.V.C is dismissed. No order as to costs.

Consequently, any miscellaneous petition pending in this revision shall also stand closed.

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**RAVI NATH TILHARI, J**

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**HARINATH.N,J**

Date:19.03.2024  
Gk



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**AND**  
**THE HON'BLE SRI JUSTICE HARINATH.N**

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*(per Hon'ble Sri Justice Ravi Nath Tilhari)*

**Date:19.03.2024.**

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