



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3481]

THURSDAY ,THE EIGHTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

TAX REVISION CASE NO: 220/2009

Between:

The State Of Ap, Rep.by The State Representative Before **...PETITIONER**
Stat

AND

M/s Sri Venkata Sai Ram Traders Kurnool **...RESPONDENT**

Counsel for the Petitioner:

1.GP FOR COMMERCIAL TAX

Counsel for the Respondent:

1.S DWARAKANATH

The Court made the following:

ORDER: *(per Ravi Nath Tilhari, J)*

Heard learned Government Pleader for Commercial Tax for the
petitioner.

2. The question of law to be decided in the revision is as follows:

i) Whether G.O.Ms.No.415 Revenue C.T (II) Department dated 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?

3. Learned Government Pleader for Commercial Tax and learned counsel appearing for the respondent submits that the same controversy was considered in TREVC.No.203 of 2009 and was decided by an order dated 19.03.2024 by a Co-ordinate Bench which held as under:

"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 31st 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 7 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 3rd 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 8 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"

3. In view of the aforesaid, the present Tax Revision Case is decided in terms of the judgment dated 19.03.2024 aforesaid. The present Tax Revision Case is dismissed.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

KIRANMAYEE MANDAVA,J

Dated: 18.04.2024
AG

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

TAX REVISION CASE NO: 220/2009

Dated: 18.04.2024
AG