

**THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

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TAX REVISION CASE No.195 of 1999
-

21.01.2011

Between:

The State of Andhra Pradesh, rep. By the
State Representative

.... Petitioner

AND

M/s.Sri Pinakini Extractions (Pvt) Limited,
Nellore.

... Respondent

**THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**
TAX REVISION CASE No.195 of 1999
-

ORDER: (Per Hon'ble Sri Justice V.V.S.Rao)

This is a revision by the State of Andhra Pradesh under Section 22(1) of the Andhra Pradesh General Sales Tax Act, 1957 (APGST Act) against the order dated 13.01.1999 in Tribunal Appeal No.178 of 1997, which was filed against the order of the Deputy Commissioner in revision No.58/95-96 A6 modifying the assessments made by the Commercial Tax Officer III, Nellore for assessment year 1991-1992.

The respondent – appellant before the Sales Tax Appellate Tribunal (STAT, for brevity) is a dealer in the sale of groundnut cake extracted solvent refined oil. For the assessment year 1991-1992, the assessing authority assessed the tax under Entry 24B of the First Schedule of the APGST Act. The revisional authority, however, held that the turnover has to be assessed under Entry 24A and not under Entry 24B of the First Schedule of the APGST Act. Aggrieved thereby, the respondent preferred appeal before STAT. The learned Tribunal following Judgment of the Supreme Court in **Anand Commercial Agencies v CTO**^[1] and Full Bench Judgment of this Court in **Rajasree**

Oils and Extractions Limited v Deputy Commissioner, Commercial Taxes^[2], held that the disputed turnover has to be taxed under Entry 24B and not under Entry 24A of First Schedule of the APGST Act. Indeed as seen from the impugned order, the learned State Representative also did not oppose seriously about the legal position. Therefore, the appeal along with another appeal being T.A No.177 of 1997 was allowed by common order.

Feeling aggrieved, the State filed T.R.C.No.183 of 1999 against T.A.No.177 of 1997 and T.R.C.No.195 of 1999 against T.A.No.178 of 1997. It is brought to our notice that T.R.C.No.183 of 1999 was dismissed by this Court on 12.08.2002.

With the assistance of the counsel for both sides, we have perused **Anand Commercial Agencies** and **Rajasree Oils**, wherein it was held that Entry 24A of First Schedule of the APGST Act is violative of the provisions of Articles 301 to 304A of the Constitution of India, insofar it imposes higher rate of tax on groundnut oil or refined oil which has been obtained from groundnuts that have not been taxed under the APGST Act. The Full Bench of this Court declared Entry 24A as illegal and violative of Article 14 of the Constitution of India. In that view of the matter, the order of the revisional authority certainly suffers from grave error and the STAT was right in setting aside the same.

The tax revision case is therefore dismissed. No costs.

(V.V.S.RAO, J)

(RAMESH RANGANATHAN, J)

21.01.2011
Pln

^[1] (1997) 25 APSTJ 254 : AIR 1998 SC 113

^[2] (1998) 27 APSTJ 53