

ANDHRA PRADESH HIGH COURT

State of Andhra Pradesh

Vs

T.G. Lakshmaiah Setty

(P Chandra Reddy, CJ. C Sastry, J.)

15.11.1960

ORDER

Chandra Reddy, C.J.

1. In this case, the Sales Tax Appellate Tribunal allowed the appeal of the respondent on the ground that the formula adopted by the department had no basis, although the Deputy Commissioner of Commercial Taxes had jurisdiction to revise the assessment made by the assessing authority.

2. We do not think this conclusion of the Tribunal could be assailed before us. Obviously, the assessment is based on a guess work. The only ground that could be urged in support of the proposal to revise the assessment is that month after month the assessee was showing 'losses which could not have been the case and that he would not have continued the business was there such loss every month. We do not think that this conjecture could be a justification for seeking to revise the order of the assessing authority.

3. If the Deputy Commissioner could on the material before him find data for revising the assessment, it is open to him to do so. It must be made clear that he has no jurisdiction to travel beyond the record that is available to the assessing authority. The basis should be found on the record already in existence. This does not, however, preclude the assessing authority itself to resort to Section 14 of the Sales Tax Act.

4. In the result, the revision is dismissed. There will be no order as to costs. W.P. Nos. 423 to 425 of 1950; W.P. Nos. 518, 519 and 526 of 1959.

5. Notices were issued by the Deputy Commissioner calling upon the petitioners in W. P. Nos. 423, 424 and 526 of 1959 to show cause why the assessments made by the proper Commercial Tax Officer should not be revised. Here again, there is no basis for the issue of the notice except the ground that it was unlikely that the assessee would have paid higher rates. We do not think

that it is permissible for the assessing authority to resort to such guess for the purpose of revising the assessments already made by the department. The notices are, therefore, quashed. If there is any real basis for the issue of such notices, it is open to him to issue fresh notices. In the exercise of the revisional jurisdiction, the principles enunciated in *Manepalli Venkatanarayana v. State of Andhra* [1959] 10 S.T.C. 524 have to be borne in mind. It is open to the assessing authority to have recourse to Section 14(4) of the Act, provided it is within time.

6. For the reasons, the notices issued by the Deputy Commissioner and which relate to W. P. Nos. 428, 424 and 526 of 1959 are quashed. The assessment orders in W. P. Nos. 425, 518 and 519 of 1959 are also quashed. There will be no order as to costs in these writ petitions.

