

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 611/2012

THE STATE OF ANDHRA PRADESH & ANR.

APPELLANT(S)

VERSUS

BHARAT SANCHAR NIGAM LIMITED

RESPONDENT(S)

WITH

CIVIL APPEAL NOS. 612-615/2012

O R D E R

C.A. NO. 611/2012:

Learned counsel for the appellants has filed this appeal assailing the order of Andhra Pradesh High Court at Hyderabad in W.P. No.4977/2009. It is needless to observe that subsequent to the bifurcation of the erstwhile State of Andhra Pradesh the appeal is now being prosecuted by the State of Telangana.

Learned counsel for the respondent submitted that the impugned order has been complied with by the State Government inasmuch as the amount to be refunded to the respondent has in fact been refunded and therefore, the correctness or otherwise of the impugned order would not call for further consideration in this appeal.

Learned counsel for the respondent-assessee further brought to our notice the fact that insofar as the main dispute between the parties is concerned, the Tax Revision Case No.245/2008 and connected matters were in fact disposed of by the Division Bench of the undivided Andhra Pradesh High Court by judgment dated 08.09.2011, by which, the matter was remanded to the concerned Assessing Officer for passing orders afresh. The said order dated

08.09.2011 was in fact assailed by the assessee before this Court in SLP (C) Nos.16551-16555/2012 and by order dated 11.04.2023 the Special Leave Petitions and C.A. No.8774/2012 were dismissed. That presently, it is not known as to whether the concerned Assessing Officer has passed fresh assessment orders pursuant to the order made by the Division Bench of the High Court *vide* order dated 08.09.2011.

Learned counsel for the respondent also brought to our notice interim order dated 11.02.2010 passed in this appeal wherein it was recorded that since the refund has been made to the assessee which is a Government Company pending the revision before the High Court, the Tax Revision Case i.e. TRC No. 245/2008 must be disposed of as early as possible and preferably within six months. Therefore, it was submitted that this Court has also recorded the fact that the respondent-assessee has received the refund from the State Government.

It was thus submitted that since the main dispute between the parties is still at large, it is unnecessary to go into the correctness or otherwise of the impugned order since the same has been complied with by the appellants herein.

By way of response, learned counsel for the appellant-State submitted that it may be that the respondent has received the refund amount as well as there is compliance of the impugned order but that is not the end of the matter. It was submitted that the dispute between the parties may still be pending before the concerned Assessing Officer inasmuch as the Division Bench of the High Court by order dated 08.09.2011 had remanded the matter(s) for

passing orders afresh. The said order has been affirmed by this Court in SLP Nos.16551-16555/2012 dated 11.04.2023. In the event the appellant-Department is successful as against respondent-assessee, liberty may be reserved to the appellants to seek recovery of the amount refunded to the respondent assessee in accordance with law.

Learned counsel for the respondent-assessee was quick to submit that the recovery would be ultimately subject to further orders to be made as the order of the Assessing Officer is not a final order.

We have recorded in detail the submissions of the learned counsel for the respective parties. Since the dispute in this appeal is in a narrow compass and the dispute between the parties under the provisions of the concerned Act is still at large, we find that having regard to the compliance of the directions issued by the Division Bench of the High Court made by the appellants herein the correctness or otherwise of the impugned order would not call for any further consideration. However, since the dispute between the parties is still at large and in the event the appellants herein are successful, liberty is reserved to the appellants to seek recovery of the amount refunded to the respondent-assessee in accordance with law.

It is further clarified that this appeal is concluded solely on the ground that there has been compliance of the directions issued by the Division Bench of the High Court, by the appellants herein.

With the aforesaid observations and liberty reserved, the

appeal stands disposed of.

No costs.

Pending application(s), if any, shall stand disposed of.

C.A. Nos. 612-615/2012:

The appellants herein being the Assistant Commissioner(CT) (LTU), Nalgonda Division, Nalgonda and others in the erstwhile Andhra Pradesh State, now presently in Telangana State, have assailed the order dated 31.07.2009 passed in W.P. Nos.6982, 6997, 7001, 7004 of 2009 filed by the respondent-assessee in which a direction was issued to the appellants herein to refund the amount payable to the respondent-assessee along with interest within a period of four weeks from the date of receipt of the certified copy of the aforesaid impugned order.

Learned counsel for the respondent-assessee submitted that these appeals would not call for further consideration inasmuch as the appellants herein have given effect to the said direction and complied with the same and have made the refund to the respondent-assessee. It was further brought to our notice that this Court by order dated 11.02.2010 has recorded that since the amount had been refunded to the respondent-assessee, a direction was issued to dispose of the pending TRC which is T. REV.C Nos. 2, 17 and 110 of 2008 and T.REV.C.No.34/2007, T.Rev.C. No. 165/2010 as early as possible and preferably within a period of six months.

Learned counsel for the respondent-assessee further submitted that the Division Bench of the High Court for the State of Telangana at Hyderabad has now disposed of the aforesaid Tax Revision Cases on 24.08.2003 in favour of the respondent-assessee

and therefore, having regard to the aforesaid significant fact, the consideration of the appeals would be a wholly academic exercise. He therefore, submitted that the appeals may hence, be dismissed as infructuous.

By way of response, learned counsel for the appellants submitted that although according to the respondent-assessee, there has been compliance of the direction issued in the impugned order, that is not conclusive of the matter inasmuch as the appellants have a right to assail the judgment dated 24.08.2023 passed by the Division Bench of the High Court for the State of Telangana at Hyderabad before this Court and therefore, any refund that has been effected in compliance of the direction issued in the impugned order to the respondent-assessee would have to be subject to the further orders to be made by this Court.

She therefore, submitted that if this Court is not inclined to consider the correctness or otherwise of the impugned order owing to the submissions made by learned counsel for the respondent then liberty may be reserved to the appellants herein to seek recovery of the amounts refunded to the respondent-assessee in accordance with law in the event the appellants to be successful in these cases before this Court insofar as the assessment years in question are concerned.

Learned counsel for the appellants further submitted that the compliance of the impugned directions of the Division Bench of the High Court would not come in the way of the appellants taking up all contentions available to the appellants in future insofar as the respondent-assessee is concerned.

We have recorded in detail the submissions of the learned counsel for the respective parties. We note that the controversy in these appeals is in a very narrow compass inasmuch as firstly, the impugned directions issued by the Division Bench of the High Court has been complied with by the appellants herein and the refund amounts have also been admittedly received by the respondent-assessee. However, the same would be subject to the conclusion of the controversy between the parties in the main matter(s). Although the respondent-assessee has succeeded before the High Court for the State of Telangana, nevertheless the appellants have the right to assail the same before this Court. Therefore, in the event the appellants herein are successful in the challenge to be made to the judgment dated 24.08.2023 passed by the Division Bench of the High Court for the State of Telangana insofar as the respondent-assessee is concerned, then liberty is reserved to the appellants herein to seek recovery of the amount refunded to the respondent-assessee in accordance with law.

All contentions on both sides are kept open to be agitated in an appropriate case.

These appeals are disposed of in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.

.....J.
(B.V. NAGARATHNA)

.....J.
(S.V.N. BHATTI)

NEW DELHI;
NOVEMBER 02, 2023

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(S).611/2012

THE STATE OF ANDHRA PRADESH & ANR.

Appellant(s)

VERSUS

BHARAT SANCHAR NIGAM LIMITED

Respondent(s)

WITH

C.A. No. 8673/2009 (XII-A)

C.A. Nos. 612-615/2012 (XII-A)

Date : 02-11-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

HON'BLE MR. JUSTICE S.V.N. BHATTI

For Appellant(s) Mr. Sahil Bhalai, AOR

Mr. Sri Harsha Peechara, Adv.
Mr. Duvvuri Subrahmanya Bhanu, Adv.
Ms. Pallavi, Adv.
Ms. Kriti Sinha, Adv.
Mr. Rajiv Kumar Choudhry, AOR

M/S. Venkat Palwai Law Associates, AOR

For Respondent(s) Mr. A. V. Rangam, AOR
Mr. Buddy. A. Ranganadhan, Adv.
Mr. Raunak Jain, Adv.

Mr. Sudarsh Menon, AOR

Mr. K.C. Kaushik, Adv.
Mr. Rahul Kaushik, Adv.
Ms. Bhuvneshwari Pathak, AOR
Ms. Shilpi Satyapriya Sataym, Adv.
Mr. Dhanesh Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

C.A. No. 8673/2009:

Detagged.

List separately.

C.A. No. 611/2012:

The Civil Appeal stands disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

C.A. Nos. 612-615/2012:

Civil Appeals stand disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

**(RADHA SHARMA)
COURT MASTER (SH)**

**(MALEKAR NAGARAJ)
COURT MASTER (NSH)**

(Signed order in C.A. No. 611/2012 and C.A. Nos. 612-615/2012 is placed on the file)