

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. OF 2026
(@SLP(C) Nos.15057-15058 of 2020)

TELANGANA STATE COOPERATIVE
MARKETING FEDERATION LIMITED

APPELLANT

VERSUS

ASSISTANT COMMISSIONER ST & ORS.

RESPONDENTS

O R D E R

1. Leave granted.

2. Heard learned counsel for the parties.

3. These two appeals arise from a common order of the High Court dated 21.08.2022 passed in connected Writ Petition Nos.12009 and 12015 of 2020.

4. The Assessing Authority disallowed the Input Tax Credit (for short, ITC) to the tune of Rs.2,08,56,835/- claimed by the appellant for the tax period October 2005 to March 2007. Against which, an appeal was preferred, which was dismissed on 18.01.2008.

5. Aggrieved therewith, the appellant preferred appeal before Telangana VAT Appellate Tribunal which was allowed vide Order dated 18.02.2016 and the matter was remanded to the Assessing Authority

to verify the claim of the appellant and pass a fresh assessment order. Thereafter, a fresh assessment order was passed on 03.09.2019 disallowing Input Tax Credit of Rs.1,62,90,794/-.

6. In between, to maintain the aforesaid appeal and in compliance of the orders, the appellant had deposited an amount of Rs.81,44,997/-. Consequently, when the fresh assessment order dated 03.09.2019 was passed, the assessing authority directed that the amount of pre-deposit i.e., Rs.81,44,997/- would be adjusted against the fresh demand of Rs.1,62,90,794/- and the balance of Rs.81,44,997/- would be paid by the appellant.

7. The order dated 03.09.2019 was questioned in appeal by the appellant, but the appeal was dismissed/ not entertained, vide order dated 29.02.2020, on the ground that the appellant had not deposited 12.5% of the disputed tax as per proviso (2) of Section 31(1) of the Telangana Value Added Tax Act, 2005 (the Act).

8. Aggrieved by the order of the appellate authority dated 29.02.2020, the appellant preferred W.P. No.12015 of 2020 before the High Court. In the meantime, consequent to non-payment of the demanded amount, based on the fresh assessment order, a notice demanding penalty was also issued, which was challenged before the High Court, by a separate writ petition i.e. W.P. No.12009 of 2020.

9. The contention on behalf of the appellant before the High Court

as well before us is that the requirement of pre-deposit under proviso (2) of Section 31(1) of the Act was more than met by the appellant on deposit of Rs.81,44,997/-. The amount required to be deposited to maintain the appeal is 12.5% of the disputed tax. The tax demanded is Rs. 1,62,90,794, therefore Rs.81,44,997 is more than 12.5% of the said amount. In other words, the case of the appellant is that the amount which is required to be deposited under the second proviso is 12.5% of the tax in dispute and since the amount deposited Rs.81,44,997/- exceeds 12.5% of the tax in dispute, there was no necessity to make a further deposit under proviso (2) of Section 31(1) of the Act.

10. The learned counsel for the respondents does not dispute that the appellant had already deposited 50% of the difference of the tax assessed by the authority concerned.

11. We have accorded due consideration to the submissions. The second proviso to sub-section (1) of Section 31 of the Act reads thus:

“Provided further that an appeal so preferred shall not be admitted by the appellate authority concerned unless the dealer produces proof of payment of tax admitted to be due, or of such instalments as have been granted, and the proof of payment of twelve and half percent of the difference of the tax assessed by the authority prescribed and the tax admitted by the appellant, for the relevant tax period, in respect of which the appeal is preferred.”

12. A plain reading of the aforesaid provision would indicate that for maintaining an appeal, the assessee would have to furnish proof of payment of tax admitted to be due, or of such installments as have been granted, and the proof of payment of 12.5% of the difference of the tax assessed by the authority prescribed and the tax admitted by the appellant, for the relevant tax period, in respect of which the appeal is preferred.

13. In the instant case, it is not in dispute that the appellant has disputed the entire tax liability. The difference of tax assessed by the authority comes to Rs.1,62,90,794/-. It is also not in dispute that 50% of the said amount has already been deposited by the appellant in the earlier round of appeal, etc. In such circumstances, when the appellant disputes the liability to pay the entire difference of tax, and the amount deposited by the appellant already exceeds 12.5% of the difference amount, in our view, the requirement of the second proviso was met and the appeal was not liable to be thrown out for non-compliance of the proviso (2) of Section 31(1) of the Act. In our view, the High Court overlooked that the entire difference of tax was disputed by the appellant, and that the deposit already made earlier, to maintain the appeal filed earlier against the assessment order, would be available to maintain appeal against the fresh assessment order passed pursuant to the order of remand.

14. In such view of the matter, we are of the view that the High Court fell in error in holding that the appellant would have to make a further deposit to maintain the appeal.

15. Insofar as the imposition of penalty is concerned, it would depend on the outcome of the appeal and therefore, both writ petitions filed by the appellant before the High Court are liable to be allowed.

16. For the foregoing reasons, we allow these appeals. The impugned order of the High Court is set aside. The appeal of the appellant before the Appellate Deputy Commissioner (CT) Secunderabad (G.I. No. A/89/2019-20) shall stand restored on the file of the Deputy Commissioner and shall be decided on merits and in accordance with law. As far as penalty imposed is concerned, the same shall stand quashed though it shall be open for the respondents to impose penalty subject to the outcome of the appeal.

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

.....J.
(MANOJ MISRA)

.....J.
(UJJAL BHUYAN)

New Delhi;
April 07, 2026.

ITEM NO.22

COURT NO.14

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 15057-
15058/2020

[Arising out of impugned final judgment and order dated 21-08-2020
in WP No. 12009/2020 21-08-2020 in WP No. 12015/2020 passed by the
High Court for The State of Telangana at Hyderabad]

M/S TELANGANA STATE COOPERATIVE
MARKETING FEDERATION LIMITED

Petitioner(s)

VERSUS

ASSISTANT COMMISSIONER ST & ORS.

Respondent(s)

Date : 07-04-2026 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) :Mr. Prasanna S., AOR
Ms. Injila Muslim Zaidi, Adv.
Mr. Maamidi Ashish Reddy, Adv.
Ms. Apoorva Singh, Adv.
Mr. Prasanna B, Adv.

For Respondent(s) :Ms. Devina Sehgal, AOR
Mr. Yatharth Kansal, Adv.

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

1. Leave granted.
2. Civil Appeals are allowed in terms of the Signed Order which is placed on the file.
3. Pending application(s), if any, shall stand disposed of.

(RASHI GUPTA)
COURT MASTER (SH)

(SAPNA BANSAL)
COURT MASTER (NSH)