**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

TAX REVISION CASE No.216 & 217 of 2010

Date: 01.07.2026

Between:

M/s. Amalgamated Holdings Limited

...Petitioner

AND

State of Andhra Pradesh represented by the State Representative before the Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad.

...Respondent

COMMON ORDER: *(As per the Hon'ble Sri Justice Narsing Rao Nandikonda)*

The Tax Revision Case No.216 of 2010 is filed under Section 22 (1) of the APGST Act, 1957 aggrieved by the order dated 07.12.2009 in T.A.No.808 of 2005 passed by the learned Sales Tax Appellate Tribunal, Hyderabad (for short, 'the Tribunal').

2. The Tax Revision Case No.217 of 2010 is filed under Section 22 (1) of the APGST Act, 1957 aggrieved by the order dated 07.12.2009 in T.A.No.411 of 2005 passed by the learned

Sales Tax Appellate Tribunal, Hyderabad (for short, ‘the Tribunal’).

3. Heard Sri S. Suribabu, learned counsel representing Sri S. Krishna Murthy, learned counsel appearing for the petitioner and Sri Swaroop Oorilla, learned Special Government Pleader for the State Tax appearing for the respondent.

4. The petitioner-appellant is common in both the tax revision cases. Both the said revisions arising out of the common revised orders passed by the Sales Tax Appellate Tribunal and pertaining to the assessment years 2000–2001 and 2001–2002 respectively. Since both revisions have been filed by the same appellant, involve common questions of law and arising out of common proceedings, they were heard analogously and are being disposed of by this common order.

5. The brief facts of the case are that the petitioner is engaged in the business of manufacturing and marketing of Blended French Coffee and is an appellant on the rolls of the Commercial Tax Officer, Khairtabad Circle, Hyderabad. The petitioner/appellant filed returns for the assessment years 2000–2001 and 2001–2002, claiming exemption in respect of the secondary sales of 'Blended Coffee' coffee powder under Section 5 read with Entry 34A of the First Schedule to the Andhra Pradesh General Sales Tax Act, 1957 (APGST Act). The exemption claimed amounted to Rs.60,50,283/- for the assessment year 2000–2001 and Rs.1,24,38,133/- for the assessment year 2001–2002.

6. However, under the assessment proceedings, the assessing authority subjected the said turnover to tax at the rate of 10% under Section 5AA of the APGST Act and computed the tax payable at Rs.2,60,712/- and Rs.7,02,476/- respectively. Aggrieved by the said assessments, the petitioner preferred appeals before the Appellate Deputy Commissioner (Commercial Taxes), Panjagutta Division and the said appeals were dismissed by his proceedings dated 20.12.2004.

7. Being further aggrieved, the petitioner preferred appeals before the Sales Tax Appellate Tribunal, Hyderabad *vide* common order dated 07.12.2009 passed in T.A.Nos.411 and 808 of 2005, the Tribunal dismissed both the appeals. Challenging the said common order, the present tax revisions have been filed raising the substantial question of law that whether Section 5AA can be applied to the sales effected by a first seller when there is an express prohibition contained in the provision itself.

8. Admittedly, the petitioner-appellant purchased chicory from M/s. Arvind Industries, Guntur, which charged and collected tax under Entry 4 of the First Schedule at the rate of 10%. The petitioner manufactures Blended French Coffee by roasting and grinding coffee seeds and thereafter mixing the requisite quantity of chicory. The resultant product is Blended Coffee, which falls under Entry 34A of the First Schedule. Since both the coffee seeds as well as the chicory had already suffered tax, the petitioner claimed exemption from further levy of tax.

9. It is further contended by the petitioner that the tax levied and collected at the preceding point of sale on the same goods is liable to be deducted from the tax payable at the subsequent point of sale.

10. Learned counsel for the petitioner argued that under Section 5AA, tax can be levied only where the sale in the hands of the trademark holder constitutes a second sale and the tax paid at the preceding point of sale is liable to be deducted from the tax payable under the said provision. It is further contended that the petitioner's sales of Blended Coffee constitute first sales, which are expressly excluded from the ambit of Section 5AA.

11. For the sake of convenience and better appreciation of the issue involved, Section 5AA of the APGST Act is extracted hereunder:

> ***Section 5AA – Levy of Tax on Trade Mark Holder:***
>
> *"Notwithstanding anything contained in this Act, whenever a dealer, who holds the trade mark or the patent thereof, sells goods other than the declared goods at any point of sale other than the first point of sale, he shall be deemed to be the first seller in the State and he shall be liable to pay tax accordingly; and for determining the tax due to be paid by him, the tax levied and collected at the preceding point of sale, if any, on the same goods shall be deducted from the tax payable by him at that point of sale."*

12. It is the case of the petitioner-appellant that it purchased coffee seeds from M/s. Amalgamated Bean Coffee Trading

Company Limited, Hyderabad, on which tax was charged and collected under Entry 33 of the First Schedule to the APGST Act at the rate of 10%. According to the petitioner, the said purchases constituted first sales. Thereafter, the petitioner manufactured blended French coffee by roasting and grinding the coffee seeds and mixing the requisite quantity of chicory purchased from M/s. Arvind Industries, Guntur. It is the petitioner's specific case that the resultant product, namely Blended/French Coffee falls under Entry 34A of the First Schedule and is therefore entitled to exemption.

13. On a careful consideration of the provisions of Section 5AA of the APGST Act, read with Entries 33, 34 and 34A of the First Schedule as well as the factual matrix of the case, it is evident that the petitioner is engaged in the manufacture and marketing of Blended Coffee by purchasing coffee seeds and chicory, subjecting the coffee seeds to the process of roasting and grinding and thereafter blending them with chicory before marketing the final product.

14. The learned counsel for the petitioner contended that under the APGST Act, tax is leviable only at a single point of sale or purchase. It was further submitted that Entries 33, 34 and 34A clearly distinguish between pure coffee and Blended/French Coffee. The expression “coffee” includes coffee seeds, roasted coffee seeds and coffee powder, but expressly excludes Blended/French Coffee. It was argued that Blended/French Coffee is a distinct commercial commodity prepared by mixing pure coffee with chicory. Since the petitioner had purchased coffee seeds from M/s. Amalgamated Bean Coffee Trading Company Limited and chicory from M/s. Arvind Industries, Guntur, both of which had already suffered tax and the subsequent manufacture and sale of Blended/French Coffee could not once again be subjected to tax.

15. Per contra, the learned Government Pleader appearing for the respondent-State submitted that the petitioner is admittedly marketing the Blended Coffee under its own trade name and brand, namely “ABC Coffee Day” and is therefore a dealer marketing goods under its own trademark. Consequently, the petitioner squarely falls within the ambit of Section 5AA of the APGST Act. It was contended that the assessing authority had rightly treated the petitioner as the deemed first seller under Section 5AA and levied tax at the rate of 10%.

16. The appellate authorities have placed reliance upon the judgment in ***M/s. Aditya Music, Hyderabad v. State of Andhra Pradesh***[1]**,** wherein it was held that for the purpose of levy of tax under Section 5AA, registration of the trademark is immaterial and that even an unregistered trademark would attract the provisions of the said section.

17. We have carefully considered the rival submissions made by the learned counsel appearing for the petitioner and the learned Government Pleader appearing for the respondent-State and also perused the material placed on record as well as the statutory provisions. A Division Bench of this Court, in the case of ***M/s. Vicrocil Oil Company v. The State of Andhra Pradesh***[2], by a common order decided on 30.01.2026 has authoritatively held that a dealer who markets goods under a

[1] 2003 (37) APSTJ 211
[2] TREVC Nos.48 and 197 of 2010

trademark or brand name at a point of sale other than the first point of sale is liable to tax under Section 5AA of the APGST Act, irrespective of whether the trademark is registered or unregistered.

18. In the light of the aforesaid decision and having regard to the facts of the present case, we are of the considered opinion that the Sales Tax Appellate Tribunal committed no error in confirming the order of the Appellate Deputy Commissioner, dated 30.12.2004, which in turn affirmed the assessment made by the Commercial Tax Officer, Khairatabad Circle.

19. We do not find any illegality, perversity, or jurisdictional error in the impugned order passed by the Tribunal warranting interference by this Court in exercise of its revisional jurisdiction. The petitioner has failed to make out any substantial ground for setting aside the orders under challenge. Consequently, the substantial questions of law are answered in favour of the respondent-State and against the petitioner-appellant.

20. Accordingly, both the Tax Revision Case Nos.216 and 217 of 2010 are devoid of merit and hence, dismissed. There shall be no order as to costs.

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

JUSTICE P. SAM KOSHY

JUSTICE NARSING RAO NANDIKONDA

Date: 01.07.2026.
vjb