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

**THE HON'BLE SRI JUSTICE P.SAM KOSHY**

**AND**

**THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO**

**TREVC. No. 26 of 2011**

**Dt.24.07.2026**

**Between:**

The State of Andhra Pradesh

…. Petitioner

And

M/s Mayuri Film Distributors

…Respondent

**ORDER:** *(Per the* ***Hon'ble Sri Justice Suddala Chalapathi Rao****)*

Heard Sri Swaroop Oorila, learned Special Government Pleader for State Tax appearing for the petitioner/Revenue and Sri Tarun Chadha, learned counsel representing Sri Karthik Ramana Puttamreddy, learned counsel for respondent/assessee. Perused the record.

2. This Tax Revision Case is filed assailing the order in TA.No.143 of 2005, dt.09.02.2010, on the file of the learned Sales

Tax Appellate Tribunal, Andhra Pradesh at Hyderabad (for short 'the STAT').

3. The brief facts of the case are that the respondent/assessee *namely* M/s. Mayuri Film Distributors, is a distributor of audio cassettes and is a registered dealer on the rolls of the Commercial Tax officer, Begumpet, Hyderabad. For the assessment year 2000-01, the Commercial Tax Officer (for short 'the CTO'), initially issued a show-cause notice proposing to levy tax on sales of audio cassettes @ 12% under Section 5AA treating the respondent/ assessee as trademark holder of 'Mayuri' and the respondent filed its objections stating that as the audio cassettes are electronic goods, are liable to tax @ 4%, and the CTO observing that the audio Cassettes fall under other electronic goods under entry 38-D of the First Schedule to the APGST Act, confirmed the levy @ 8%.

4. Aggrieved by the said order, the respondent/assessee filed appeal before the Appellate Deputy Commissioner(CT), Punjagutta Division, which by order, dt.30.04.2004, was partly remanded and partly dismissed. The Appellate Deputy Commissioner held that the CTO rightly levied tax under Section 5AA as deemed first seller of the audio cassettes and the respondent's contention that the

word 'Mayuri' mentioned on the cassette cover is to be registered under the Trademarks Act, 1999, does not change the character of transaction and the appellate authority held that the dealer uses or holds the trademark will not come in the way to levy tax under Section 5AA of the Act and further held that up to 31.12.1999 as per G.O.Ms.No.252, dt.19.05.1995, the audio cassettes are exigible to tax @ 4% and not @ 8% as levied by the CTO and from 01.01.2000, as the audio cassettes fall under Entry 10 of the First Schedule of the APGST Act they are exigible to tax @ 12%..

5. Challenging the said order of the Appellate Deputy Commissioner, the respondent/assessee preferred appeal before the learned STAT.

6. The learned STAT, after examining the record and relying on the decisions of the Hon'ble Supreme Court in ***State of Andhra Pradesh v. Concap Capacitors & Others***[1]and ***State of Andhra Pradesh v. Dunlop India Limited***[2] allowed the appeal holding that the G.O.Ms.No.252 was not rescinded by G.O.No.910, dt.31.12.1999 and G.O.Ms.No.252 issued under Section 9(1) of

[1] 10 VST 204
[2] 3 APSTJ 84

the Act is operative till it is rescinded irrespective of the changes in the entries to the Act and thus remanded to determine rate of tax as per G.O.Ms.No.252, dt.19.05.1995 for extending the benefit of concessional rate of tax @ 3.5%.

7. Assailing the said order of the learned STAT, the petitioner/Revenue has filed the present Tax Revision Case on the following substantial question of law:

> 1. *Whether the Tribunal is correct in holding that the G.O.Ms.No.252, dt.19.05.1995 is in force even after subsequent amendment to the Entry 38 of the First Schedule to the Act, since the same is not rescinded?*
>
> 2. *Whether the Tribunal failed to appreciate that the G.O. which is issued under old entry automatically nullifies after change in the said entry?*

8. Sri Swaroop Oorila, learned Special Government Pleader for State Tax appearing for the petitioner/Revenue contended that the order passed by the learned STAT is unsustainable in law. He contended that G.O.Ms.No.252 is applicable only upto 31.12.1999 and from 01.01.2000 as per entry 10 of the First Schedule to the Act, the audio cassettes are exigible to tax @ 12% and that Appellate Deputy Commissioner rightly held that when the

disputed commodity specifically is classified under the entry 10 of the First Schedule, the tax has to be levied as per that entry only.

9. Learned Special Government Pleader placing reliance on the judgments of the Hon'ble Supreme Court in ***Sales Tax Officer, Sector IX, Kanpur v. Dealing Dairy Products and another***[3], ***Commissioner, Sales Tax, UP v. Agra Belting Works***[4] further contended that the observation of the STAT that G.O.Ms.No.252, dt.19.05.1995, is in force even after the subsequent amendment made by G.O.Ms.No.910, dt.31.12.1999, since the said G.O.Ms.No.252 was not rescinded, is erroneous, and thus prayed to allow the appeal setting aside the order of the learned STAT and contended that by virtue of it being brought into entry 10 of First Schedule, the G.O.Ms.No.252, dt.19.05.1995 gets redundant and the assessee cannot get the benefit from such government order.

10. Sri Tarun Chadha, learned counsel representing Sri Karthik Ramana Puttamreddy, learned counsel for respondent/assessee while supporting the orders of the learned STAT contended that the learned STAT has rightly arrived at the conclusion that since

[3] (1994) 94 STC 93
[4] (1987) 66 STC 1

the G.O.Ms.No.252 was not rescinded, by the subsequent G.O.Ms.No.910, dt.31.12.1999, it is operative till it is rescinded and thus, the commodity brought under Entry 10 of First Schedule shall not make the Government Order redundant and contended that the remand with reference to the rate of tax as per G.O.Ms.No.252 is just and proper and does not warrant interference by this Court and as such prayed to dismiss the instant revision case.

11. We have given earnest consideration to the submissions made by the counsel on either side and perused the record.

12. Upon consideration of the submissions of the learned counsel appearing on either side, and on perusal of the material available on record, the principal issue that arises for consideration is, whether audio cassettes, which have been classified as 'electronic goods' by the Electronics Commission of India under Item No.16.1, and covered by G.O.Ms.No.252, Industries and Commerce Department, dt.19.05.1995, ceased to be entitled to the concessional rate of tax, merely because Entry 10 was introduced into the First Schedule to the Andhra Pradesh General Sales Tax Act, 1957, with effect from 01.01.2000.

13. Undisputedly, the classification accorded by the Electronics Commission of India is founded upon scientific and technical expertise and has been specifically adopted by the Government while issuing G.O.Ms.No.252 under Section 9(1) of the Act. Therefore, as long as the said Government Order remained in force and not rescinded by the Government, the Revenue could not disregard the classification and levy tax contrary thereto.

14. It is well settled that a notification issued in exercise of the statutory power under Section 9(1) of the Act operates independently and continues to remain effective until it is expressly withdrawn, superseded or rescinded. The mere amendment of an entry in the First Schedule cannot, by necessary implication, nullify a concession granted under a statutory notification. Admittedly, G.O.Ms.No.252, dt.19.05.1995, had not been rescinded during the relevant assessment year. Consequently, the introduction of Entry 10 in the First Schedule by G.O.Ms.No.910, dt.31.12.1999, did not have the effect of withdrawing the concessional rate granted to electronic goods, as was held by the learned STAT.

15. The above conclusion stands fortified by the decision of this Court in ***Super Cassette Industries***' case(supra), wherein it was categorically held that pre-recorded audio cassettes fall within Item No.16.1 of the list published by the Electronics Commission of India and are, therefore, 'electronic goods' entitled to the benefit of G.O.Ms.No.252. The said principle has been upheld by the Hon'ble Supreme Court in ***Concap Capacitors***' case*(supra)*, wherein the it was held that once the Electronics Commission classifies a commodity as an electronic good and such classification is adopted by the Government for extending a statutory concession, the taxing authorities are bound by such classification and cannot assign a different classification for the purpose of denying the benefit of the notification. Thus, the ratio laid down therein squarely governs the facts of the present case.

16. More pertinently, the reliance placed by the learned STAT on the judgment of the Hon'ble Supreme Court in ***Dunlop India Limited***'*s case(supra)* is well founded. The Supreme Court reiterated that statutory exemption and concessional notifications issued in exercise of statutory power constitute a distinct source

of law and continue to operate until and unless rescinded by a specific Government Order.

17. Though much reliance was placed by the learned Special Government Pleader for petitioner/Revenue on the decisions of the Hon'ble Supreme Court in ***Dealing Dairy Products***' case(supra) and ***Agra Belting Works***' case(supra) to contend that once the statutory entry underwent amendment, the earlier notification issued with reference to the unamended entry automatically ceased to operate, lacks merit and are untenable, since they relate to different statutory provisions and notifications, which were rendered in different factual circumstances.

18. In the present case, the benefit claimed by the respondent/assessee arises from G.O.Ms.No.252, dt.19.05.1995, issued under Section 9(1) of the Act, which specifically follows the classification made by the Electronics Commission of India. It is not in dispute that the said Government Order remained in force and it was neither withdrawn nor cancelled during the relevant assessment year.

19. Since the Government Order was neither withdrawn nor superseded, the benefit granted thereunder could not be denied merely due to the introduction of Entry 10 in the First Schedule to the Act. Therefore, the judgments relied upon by the Revenue do not support their case, and thus the said contention of the learned Special Government Pleader is hereby negated. More so, the principles laid down by the Hon'ble Supreme Court in ***Concap Capacitors***'s case(supra) and ***Dunlop India Limited***'s case(supra), relating to the validity of continuing notifications and the binding nature of classification decisions, squarely apply to the present case.

20. In view of the above discussion, in our considered opinion, the learned STAT has properly considered and interpreted G.O.Ms.No.252, dt.19.05.1995, the classification made by the Electronics Commission of India, and the law laid down by the Hon'ble Supreme Court and rightly concluded that the respondent/assessee is entitled to the concessional rate of tax. Accordingly, the substantial questions of law are answered against the Revenue and in favour of the assessee. Thus, the Tax Revision Case is devoid of merits and is liable to be dismissed.

**CONCLUSION:**

21. Accordingly, the Tax Revision Case is dismissed. No order as to costs.

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

**P.SAM KOSHY, J**

**SUDDALA CHALAPATHI RAO, J**

Dt.24.07.2026

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