S.V. Gopala Rao & Ors. v. Commissioner of Income Tax & Ors.

Writ Petition 8637/2003

W.P. No. 8637/2003 (Andhra Pradesh High Court, 2004-08-09) | 2004-08-09

Tax-recovery auction set aside as beyond statutory time

119 | Second Schedule Rule 68B | Second Schedule Rule 94

Andhra Pradesh High Court | Division Bench at Hyderabad | Bilal Nazki | S. Ananda Reddy

Assessment years:

01 FACTS OF THE CASE

S.V. Gopala Rao and four others challenged the auction of 19 February 2003 and its confirmation. The assessment had become final before the transitional reference date. Revenue relied on exclusion of an approximately five-year court stay, an additional year after an unsuccessful auction, and Notification 9995 of 1 March 1996 extending the period from three to four years.

Source: PDF pp.3–5

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the notification's asserted power to amend the parliamentary provision. Neither section 119 nor the relied-on removal-of-difficulties argument under Rule 94 supplied authority for that change. It treated the applicable Rule 68B period as three years and held this sale out of time.

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03 JUDICIAL DECISION

The sale was set aside and the writ allowed without costs. Revenue retained liberty to take recovery steps if permissible in law.

Source: PDF pp.3–5

04 OUTCOME / IN WHOSE FAVOUR

The petitioners succeeded against this auction. The underlying tax liability was not extinguished and all possible lawful recovery was not prohibited.

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05 EXPERT COMMENTS

Delegated administration could not supply the disputed extra year — The decisive issue was the purported notification amendment to a provision enacted by Parliament. The Court rejected that source of extension; it did not invalidate every administrative instruction under section 119. The holding is tied to the identified notification and statutory recovery rule.

The limitation computation remains historically specific — The order discusses the transitional date, earlier auction and court-stay period, but does not reproduce a day-by-day calculation. Its three-year statement is a 2004 holding on the legislation then considered, not a representation of current statutory time limits. Later amendments and treatment are not independently checked here.

Auction invalidity and debt recovery are distinct — The Court expressly preserved recovery if legally available after setting this sale aside. That qualification prevents a claim that the assessment debt disappeared. Nor does the judgment specify a particular fresh auction or alternative recovery method as already authorised; each would have to satisfy the applicable law.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

Andhra Pradesh High Court order; verified source copy

Complete 6-page supplied source; all pages read.

All 6 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Only source-supported provisions are indexed; no Income-tax Act, 2025 equivalence is asserted.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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