

APS RTC

No WA1/65(2)/96-AD

O/o the VC & MD Finance Wing
Mushirabad Hyderabad
Dated 30 Jul 97

ACCOUNTS CIRCULAR No 10 / 1997 AD

To
All Depot Managers/
Unit Officers A P S
R T C

Sub TAXES Payment of Cess on Non Agricultural Land Assessment Reg

Ref 1) Circular No WA/65(2)/96 AD, dated 08 JUL 96

2) CLO Lr No CLO/Opinion(1)/97 dated 19 JUL 97

It was instructed vide Circular under reference 1st cited that no Cess be paid on N A L A Tax Some of the Depot Managers have sought clarification regarding payment of Cess as demands were raised by the respective MROs for payment of Cess on NALA Tax

The CLO vide reference 2nd cited has clarified that the Division Bench of Hon'ble High Court of A P in its judgement dated 12 DEC 96 in Writ Petition No 17303/88 and Batch reported in 1977(4) ALD 352(D B) held that levy of Cess on the Assessment determined under section 4 of the N A L A Act is without Authority of law and therefore quashed the demand of Cess in the demand notices Therefore such demands are illegal as held by High Court of A P (Copy of the judgement enclosed)

Hence all the Depot Managers / Unit Officers are advised to file representation before the M R O concerned requesting to withdraw the demand of Cess on N A L A and to pay only NALA Tax

Encl One

Sd/ (G Somasekhara Rao)
FINANCIAL ADVISER

1997 (4) ALP 352 (D B)

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD
SYED SHAH MOHAMMED QUADRI AND B S RAIKOTE JJ

Twelfth Day of December 1996

W P No 17303 OF 1988 and Batch

Andhra Pradesh Rayon's Limited v Revenue Divisional Officer
Warangal and Qrs

Andhra Pradesh Non Agricultural Land Assessment Act 1963 Section 4 Andhra Pradesh (Andhra Area) District Boards Act 1920 Sections 74 B and 78 Andhra Pradesh (Telangana Area) District Boards Act 1956, Section 135 Levy of cess at 12% or 18% of the assessment made under the Non Agricultural Land Assessment Act Illegal

A close reading of the provisions of this Act and the Rules made thereunder suggests that they do not contemplate levy of cess under the provisions of the Act and the Rules made thereunder (para 12)

A perusal of Section 135 of the Telangana Act referred to above shows that the cess authorised to be levied under that Act is at the rate of twelve paise on every rupee of land revenue payable to the Government and the cess authorised to be levied under Sections 74 B and 78 of the Andhra Act is leviable on the annual rental value of the land as determined under Section 79 of the Andhra Act The land revenue under Telangana Act and the annual rental value under the Andhra Act are determined on a basis different from the assessment under the NALA Act Therefore they do not represent one and the same amount Merely because the word assessment is used in Andhra Act of 1920 and the same word is used in NALA Act of 1963 it cannot be contended that both represent the same basis or the same amount The measure of basis of the land cess cannot be treated as the same when in fact under the scheme of those different Acts they lead to different sums Therefore the levy of cess on 12% or 18% of the assessment determined under Section 4 of the NALA Act is without authority of law (paras 19 and 20)

1991 (2) ALT 639 held per incuriam

Mr Chinna Basappa Desai Counsel for the Petitioners in WPs 17303/88 and 4058/89

Mr D Gopal Rao Counsel for the Petitioner in WP 10232/91

Special Government Pleader for Taxes and Advocate General Counsel for the Respondents in all WPs