Macherlappa And Sons vs Government Of Andhra (Now Andhra ... on 7 November, 1957

Equivalent citations: [1958]9STC156(AP), AIR 1958 ANDHRA PRADESH 371, ILR (1958) ANDH PRA 421, (1958) 9 STC 156, 1958 ANDHLT 482, (1958) 1 ANDH WR 405

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Bench: K. Subba Rao

JUDGMENT

Subba Rao, C.J.

1. These two revisions arise out of the order of the Andhra Sales Tax Appellate Tribunal in respect of assessments made by the Deputy Commercial Tax Officer, Tadpatri, on the petitioner for the two years 1952-53 and 1953-54. The Sales Tax Authorities having held that the return of the turnover was not true, estimated the turnover and assessed him on a total turnover of Rs. 12, 452-6-1 for 1952-53 and Rs. 10, 353-9-6 for 1953-54. The orders of the Commercial Tax Officers were confirmed by the Tribunal. The order of the Tribunal discloses that the assessee only argued before them two questions, viz., that they were petty dealers and that the writing found in the books and letters found in their business place were those of an insane son of the dealer and that they should not be relied upon. The arguments were rejected, and the appeals were dismissed. Hence the revisions.

2. Learned counsel for the assessee argued that before the Tribunal, on behalf of the assessee, it was contended that the District Magistrate, Gooty, in C.C. No. 73 of 1953 on his file held that the books, on the basis of which the assessment was made, did not belong to the assessee and that finding was binding on the Tribunal, but that the Tribunal omitted to consider that point. The Tribunal disposed of the appeal on the 31st October, 1955. The District Magistrate delivered the judgment on 15th June, 1955. In the memorandum of grounds filed in this Court, the petitioner alleged that this point had been taken before the Tribunal, but the Tribunal did not give its decision thereon. The Government Pleader, though he says that the record does not disclose any such point was made or the said judgment was filed, is not in a position to assert that this point was not in fact raised before the Tribunal at the time of the arguments. In the circumstances, we think that in the interests of justice it is necessary that the tribunal should be asked to submit findings on the followings two points :-(1) Whether, as a matter of fact, the petitioner placed before the Tribunal, the judgment of the Criminal Court and argued on the basis of it ?

(2) Whether the finding of the District Magistrate in C.C. No. 73 of 1955 is binding on the Tribunal,

and if so, what is the effect of that finding on the assessment ?

The Tribunal is directed to submit the finding within one month from the receipt of the records. One week thereafter for objections.

FINDINGS OF THE TRIBUNAL

3. In pursuance of the above order, the Andhra Sales Tax Appellate Tribunal, Hyderabad (Deccan) submitted the following findings :-

> The High Court is pleased to call for findings on two points : (1) Whether, as a matter of fact, the petitioner placed before the Tribunal the judgment of the Criminal Court and argued on the basis of it; (2) Whether the finding of the District Magistrate in C.C. No. 73 of 1955 is binding on the Tribunal, and if so, what is the effect of that finding on the assessment.
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> Point No. (1) :- The appellant had not filed a certified copy of the judgment of the Criminal Court before the Tribunal. He sent a private copy of the judgment of the District Magistrate, Gooty, C.C. No. 73 of 1955 dated 25th June, 1955 by post on 22nd August, 1955, and it was received in the Tribunal's office on 24th August, 1955. In the memo which was sent along with the private copy of the judgment the appellant prayed that interim stay may be granted until the disposal of the appeals. The appellant has not served a copy of this judgment on the State Representative nor filed a petition to admit the judgment in evidence at the time of hearing of the appeal. In the circumstances it cannot be said that he has formerly brought the judgment to the notice of the Tribunal and addressed arguments regarding its effect on the assessment proceedings.Point No. (2) :- The Deputy Commercial Tax Officer, Tadpatri, having found two bill books, 2 bound note books, one pocket size note book, 4 purchase bills and a letter-head pad containing some entries (in pencil) of sales on a surprise inspection of the appellant's business premises, assessed the appellant on best judgment basis for the years 1952-53 and 1953-54. The appellant preferred appeals to the Commercial Tax Officer urging that writings in the books and letters found in the business premises were those of the appellant's insane son and cannot therefore be relied upon. But the Commercial Tax Officer rejected the said contention and dismissed the appeal. The Tribunal also dismissed the appeals rejecting that contention "rightly" as observed by the High Court. It was, however, urged before the High Court, that in C.C. No. 73 of 1955 which was filed by the Deputy Commercial Tax Officer against this appellant the District Magistrate of Gooty held "that the books on the basis of which the assessment was made do not belong to the assessee and that the finding was binding upon the Tribunal, but that the Tribunal omitted to consider that point." The complaint filed by the Deputy Commercial Tax Officer against this appellant was that he committed an offence under section 15(a) read with rule 11(1) of the Turnover and Assessment Rules by not submitting the return of his turnover for 1953-54 within the time allowed. Under rule

11(1) of the Turnover and Assessment Rules, every dealer whose net turnover reaches Rs. 10, 000 in any year is liable to submit the return in Form A on or before the 1st day of May showing the actual gross and net turnover for the preceding year and the amounts by way of tax or taxes actually collected during that year.

With regard to certain books marked as Exs. P-3 to P-8 and styled sales account books and purchase books, the Criminal Court observed as follows :-"The presumption of P.W. 1 (Deputy Commercial Tax Officer) that the transactions as per Exs. P-3 to P-8 relate to the accused cannot be upheld in the absence of disinterested satisfactory evidence and proof. I therefore hold on the evidence on record that the prosecution failed to prove the guilt of the accused for an offence under rule 11(1) of the Rules under the Madras General Sales Tax Act, 1939."

4. There is no positive finding by the Criminal Court that Exs. P-3 to P-8 did not belong to the accused. The Court simply observed that it was not prepared to hold that the prosecution proved beyond reasonable doubt the connection of the accused with Exs. P-3 to P-8. This is not the same thing as a finding that Exs. P-3 to P-8 did not belong to the accused, but to some other person, and as such the conclusion does not preclude any other Court from reaching a different conclusion regarding the connection of these books to the accused independently on the material that might be placed before it. Our finding therefore on this point is as follows :-

(a) That there is no finding by the Criminal Court unequivocally holding that the account books produced before it did not belong to the accused, and such a finding while it may be sufficient to acquit the accused on the doctrine of "benefit of doubt" cannot be pleaded as a bar on the principle of res judicata against the Tribunal coming to its own conclusions on evidence before it regarding the connection of the accused with these books. The learned Advocate for the appellant has cited the decision of the Madras High Court reported in Jerome D'Silva v. Regional Transport Authority (1952 1 M.L.J. 35). The judgment is not relevant to the point at issue, but we still refer to it as the learned Advocate has advanced serious argument on the analogy of that decision. The facts in that case are as follows :-The petitioner before the High Court in that case was the owner of a lorry No. MDX 1251 having a public carrier permit granted by the Regional Transport Authority, South Kanara. On 14th April, 1950, his lorry was detained on suspicion that it contained smuggled rice and the owner was prosecuted by the police for offences under section 186 of the Indian Penal Code and section 7 of the Essential Supplies Act in C.C. No. 602 of 1950 on the file of A.F.C.M's Court, Mangalore. But he was acquitted on 6th January, 1951. The Regional Transport Officer meanwhile issued a notice calling upon him to show cause why his permit should not be cancelled or suspended as the lorry was engaged in smuggling foodgrains. On 3rd March, 1951 (that is nearly two months after his acquittal), the petitioner's permit was suspended by an order of the Regional Transport Officer. The petitioner then file an application before the Regional Transport Officer. The petitioner then filed an application before the Regional Transport Officer specifically bringing to his notice the order of acquittal dated 6th

January, 1951, and requested him to reconsider his previous order. But this application was also dismissed on 31st March, 1951. Upon these facts their Lordships observed as follows :-

"We have no hesitation in making it clear that a quasi Judicial Tribunal like the Regional Transport Authority or the Appellate Tribunal therefrom cannot ignore the findings and orders of competent Criminal Courts in respect of an offence when the Tribunal proceeds to take any action on the basis of the commission of that offence. Let us take the instance before us. The offence consists in smuggling foodgrains. For the same offence, the petitioner was originally prosecuted. He has also been punished by his permit being suspended for a period of three months. If the criminal case against him ends in discharge or acquittal, it means that the petitioner is not guilty of the offence and therefore did not merit any punishment. It would indeed be a strange predicament when, in respect of the same offence, he should be punished by one Tribunal on the footing that he was guilty of the offence and that he should be honourably acquitted by another Tribunal of the very same offence."The underlying principle of the above decision of their Lordships is the facility of acquittals by Criminal Courts as regards the particular offence tried.

It will be seen that the very basis for the punishment awarded by the Regional Transport Authority is the offence of smuggling for which the appellant was acquitted by Criminal Court; and that contravenes the principle of facility of acquittal. In the present case the order of assessment passed by the Tribunal is not a punishment for any offence and still less for the offence for which he was tried and acquitted in Criminal Court in C.C. No. 73 of 1955. If the department or the Tribunal inflicted anything in the nature of a punishment upon the appellant for not submitting his return treating it as an offence in derogation of the acquittal by the Criminal Court, the ratio decidendi of the above decision could be invoked. The fact that the appellant was acquitted of an offence for non-submission of return in time, cannot be used by him as a bar against the appropriate authority or the Tribunal levying proper tax on him on the basis of proper evidence later on. Still less can the appellant rely upon the observation of the Criminal Court that sufficient evidence was not placed before it to connect the accused with the account books, as conclusive finding that they did not relate to the accused at all so as to prevent any other Court from coming to a different conclusion on further material that might be placed before it, for proving the connection.

5. Our finding therefore on point No. (2) is that the District Magistrate did not give any definite finding that the account books (Exs. P. 3 to P-8 before him) did not relate to the accused at all but merely observed that the connection could not be deemed to be established in the absence of more satisfactory evidence and such a conclusion is no bar to the Tribunal arriving at its own conclusions on the material before it regarding the connection between the accused and the accounts in question. The acquittal of the accused by the Criminal Court is conclusive so far as the offence for which he was tried is concerned. The departmental officer and the Tribunal are no doubt precluded,

in view of the acquittal, from taking any punitive action against the appellant for that default, namely, non-submission of the return in time. But it does not enable the appellant to escape assessment altogether when there is appropriate material before the Tribunal to justify the levy of assessment against him.On receipt of the above-said findings of the Andhra Sales Tax Appellate Tribunal, the Court delivered the following judgment :

Ranganadham Chetty, J.

6. On 22nd November, 1956, the High Court called from the Sales Tax Appellate Tribunal findings on the following points :-

(1) Whether, as a matter of fact, the petitioner placed before the Tribunal, the judgment of the Criminal Court and argued on the basis of it ?

(2) Whether the finding of the District Magistrate in C.C. No. 73 of 1955 is binding on the Tribunal and if so, what is the effect of that finding on the assessment ?

7. The Tribunal has submitted that no certified copy of the judgment of the Criminal Court was filed before them, that only a private copy of the judgment was sent by post with a covering memo praying for interim stay until the disposal of the appeal and that not even a petition was filed to admit the judgment in evidence at the hearing of the appeal. In the circumstances, says the Tribunal, it cannot be said that the judgment was formally brought to their notice or that arguments were addressed regarding the effect of the judgment on the assessment proceedings.

8. It is contended before us, on behalf of the assessees, that even at the hearing of the appeal arguments were addressed to the Tribunal. Evidently the Tribunal declined to consider the point in the absence of a certified copy of the judgment and a petition for admitting it in evidence.

9. We feel that the Tribunal could have asked the State Representative present about the judgment. In all likelihood, he would have admitted it obviating the need for a certified copy; rules of procedure are intended primarily for advancing ends of justice.

10. A copy of the judgment of the Criminal Court has been filed before us and we proceed to consider point No. (2).The main question resolves itself into two :-

(a) Is the finding of the Criminal Court binding on the Tribunal ?

(b) If so, what is its effect on the assessment proceedings ?

Point (a) :- The facts may be recounted briefly. The assessees are dealers in bamboos and timber at Tadpatri. They were carrying on business for a number of years without submitting returns under the Sales Tax Act in view of their turnover not reaching the limit of Rs. 10, 000 at any time. On 11th December, 1954, the Deputy Commercial Tax Officer paid a surprise visit to the business premises and found large stocks of bamboos and timber. He seized two bill books, two bound note books, one

pocket size not book, four purchase bills and a letter-head paper containing some entries in pencil under date 14th March, 1952. He worked out the figures of turnover and proposed assessing the dealers on a total of Rs. 12, 452-6-1 for 1952-53 and Rs. 10, 353-9-6 for 1953-54. The dealers objected saying that the entries were mere scribblings of an insane member of the family and did not represent the transactions of the business. The plea was rejected and the assessment made on the figures proposed by the officer on 30th January, 1955. The assessees appealed to the Commercial Tax Officer, who confirmed the aforesaid order of the Deputy Commercial Tax Officer on 5th March, 1955.

Deputy Commercial Tax Officer then launched a prosecution against the assessees for an offence of failure to furnish the return due under rule 11(1) of the Madras General Sales Tax Rules punishable under section 15(a) of the Act. The criminal case ended in an acquittal. The District Magistrate held that the prosecution had failed to prove the guilt of the accused beyond reasonable doubt. In his judgment the learned Magistrate adverted to the contention of the accused that Exs. P-3 to P-5 did not belong to them at all and that Exs. P-1 and P-2, which were not disowned by the accused, did not yield data for a turnover exceeding Rs. 10, 000. The findings of the learned Magistrate are expressed thus :-"Exs. P-4 and P-5 do not bear the name of the accused. Exs. P-3 and P-4 bore the the printed letter-head of K. Chennayya Coffee Works, Car Street, Tadpatri ..... There is no proof that Exs. P-3 to P-5 contain transactions relating to the accused. On the other hand the printed letter-head thereon shows that they relate to K. Chennayya Coffee Works, Car Street, Tadpatri ..... The presumption of P.W. 1 that the transactions as per Exs. P-3 to P-8 relate to the accused cannot be upheld in the absence of disinterested satisfactory evidence and proof."

11. It is obvious that the stand taken by the accused in the Criminal Court was entirely different from the plea advanced before the departmental offices. In the Criminal Court the theory of an insane member of the family scribbling entries was obviously given up and a fresh plea that some of the books and documents seized belonged to someone else raised for the first time. But the fact remains that the Magistrate acquitted the accused.

12. The Tribunal, while submitting its finding on point No. 2, refers to the authority cited by the learned Advocate for the appellant, Jerome D'Silva v. Regional Transport Authority (1952 1 M.L.J. 35), and declines to apply the principle of the said decision to the present case. They justified the order of assessment on the ground that an assessment to tax was not a punishment for any offence and still less for the offence for which the accused was tried and acquitted by the Criminal Court. So far as the effect of the judgment on the assessment is concerned, the Tribunal construe the findings of the Criminal Court as amounting merely to holding that the prosecution failed to prove beyond reasonable doubt the connection of the accused with the documents and not as positively and unequivocally laying down that the documents did not belong to the accused.In this case arises quite an important question of law whether in matters of taxation, as under the Madras General Sales Tax Act, an acquittal by a Criminal Court in a prosecution involving substantially the same questions as form the basis of the assessment, bars the department and the Tribunal making or confirming an assessment. In other words, the problem is how far the judgment and findings of a Criminal Court are binding on administrative and quasi Judicial Tribunals.

13. The learned Advocate for the petitioners maintains that the department, having voluntarily invited a decision by the Criminal Court on a stated issue, cannot be allowed to reject the finding if it is adverse to them. Prima facie the argument sounds plausible but on an analysis of the legal position, leaves us in no doubt that it is wholly untenable.

14. For the assessees reliance is placed on the principle of the decision in Jerome D'Silva v. Regional Transport Authority (1952 1 M.L.J. 35). In the said case, a driver of a lorry was prosecuted by the police for carrying smuggled rice in the lorry, under section 186 of the Indian Penal Code and section 7 of the Essential Supplies (Temporary Powers) Act. The Magistrate, after a full enquiry discharged the accused holding that the accusation was baseless. While the case was pending, the Regional Transport Officer required the owner of the lorry to show cause against the cancellation or suspension of the lorry permit. An explanation was offered but was rejected and the permit was suspended. Sometime earlier, an order of acquittal had been passed by the Magistrate. Subsequently, the owner filed an application before the Regional Transport Officer for reviewing his decision. The petition was treated as an appeal and was dismissed by the Regional Transport Authority. The owner moved the High Court of Madras for a writ of certiorari quashing the order of the Regional Transport Authority. A Division Bench of the High Court summed up the position this :-"If there is a conviction by a competent Criminal Court, that would furnish conclusive ground for any penal action by the Transport Authorities. Equally if the criminal prosecution ended in a discharge or acquittal of the accused and that event happened before the order of any Road Transport Tribunal, then such Tribunal would not have the power to go behind the other final order of a competent Criminal Court. If at the time the Road Transport Tribunal disposes of any application or before such Tribunal passes an order no prosecution has been launched, then of course it is not incumbent on the Tribunal to await a criminal prosecution. But if a prosecution has actually commenced and that prosecution is in respect of the same offence by reason of which the Transport Authority proposes to take drastic action against the accused in the criminal case, then it is desirable that the Transport Authority should await the decision of the Criminal Court. This procedure would avoid the spectacle of two departments of the Government proceeding on contradictory lines to the annoyance and hardship of the citizen."

15. The above proposition engrafts an exception on the principle, broadly stated, that judgments of a Criminal Court are not admissible in evidence and not binding on Civil Courts. Numerous decisions, English and Indian, bear out the general proposition. In Ballantyne v. Mackinhon (1896 2 Q.B. 455, 462) a reference was made to a significant observation in an earlier case in these words :-

> "A judgment in an English Court is not conclusive as to anything but the point decided, and therefore a judgment of conviction on an indictment for forging a bill of exchange, though conclusive as to the prisioner being a convicted felon is not only not conclusive, but is not even admissible evidence of the forgery in an action on the bill, though the conviction must have proceeded on the ground that the bill was forged."As early as in 1868 in Keramutoolah Chowdhary v. Gholam Hossein (1868 9 Suth. W.R. (Civil) 77) it was held that a proceeding of a Criminal Court is not admissible as evidence and would not relieve a Civil Court from the duty to find facts for itself. In Kashyap v. Emperor (A.I.R. 1945 Lah. 23) the Full Bench wished very

much that a conflict of findings between two Courts on the same subject were avoided but could find no provision in the Evidence Act which could obviate it. Their Lordships observe :-

"I must admit that it would have been a good thing to avoid conflict of opinions between the two Courts if it were legally possible so to do but in the absence of any provision to that effect in the Evidence Act, I cannot see how could this be avoided as long as it is possible for two independent Judges to come to two different findings on the same evidence."

16. The learned Government Pleader relies on Venkatapathi v. Balappa (65 M.L.J. 146) and Kutumbarao v. Venkataramayya (1950 2 M.L.J. 336) for the view that what can be proved in a case for damages for malicious prosecution is not the contents and findings in the judgment of acquittal or discharge by a Criminal Court but only the ultimate result, that is, the factum of acquittal or discharge.

17. In Ramanamma v. Appala Narasayya (62 M.L.J. 230), a criminal complaint and a suit for damages for defamation were filed. The suit was dismissed. The judgment of the Civil Court was sought to be admitted as evidence in the criminal case. It was the converse of the present case. The Court held against admissibility observing :-

"Can we not have the Civil Court trying over again a matter which has been decided by a Court of competent jurisdiction and coming to a different conclusion ? The truth is that, although the civil suit and the prosecution may be based on exactly the same cause of action, the parties are, strictly speaking, not the same, the burden of proof is differently placed and different considerations may come in. The result may, therefore, be a conflict in decision. For instance, A is tried for murdering B, but acquitted, because a confessional statement by him is, in a criminal trial, inadmissible in evidence. C, B's widow, sues him for damages for the murder and gets a decree, the confessional statement being admissible in a civil suit. In the matter of defamation again, there is a good deal of difference between a suit for damages and a criminal prosecution. The prosecution is governed by the provisions of the Indian Penal Code, the suit by the English law of slander and libel. A defence which is open to the accused in the prosecution is not open to him as the defendant in the suit. The question of special damages may arise in the suit, but cannot arise in the prosecution."What is plausibly urged on behalf of the assessees is that a conflict of decisions could not have been intended by the Legislature. But the view of Jackson, J., in Gnanasigamani Nadar v. Vedamuthu Nadar (52 M.L.J. 80) is that, "The risk of such a conflict is one that is inherent in the division of causes into criminal and civil. The judgment of neither court is binding on the other and each must decide the cause on the evidence before it. If they arrive at different conclusions, it is regrettable, but unavoidable."

18. We need hardly emphasise the fundamental differences in the very object, approach and procedure relating to civil and criminal actions. The standard of proof for imposing a liability, it is well known, varies within wide limits as the action is criminal, civil or fiscal. While in a civil suit a defendant can be made liable on probabilities or the action decided on a mere consideration of the burden of proof in the absence of other evidence, no accused can be convicted on such uncertain grounds. The principle governing criminal justice that the State would rather allow a score of real offenders to escape than see a single innocent man convicted, can hardly find an echo in civil litigation. If the same principle should be extended to the realm of taxation, the consequences on the economy of the State may well be imagined.

19. It is undeniable that so far as the Civil Courts and Tribunals, to which the provisions of the Evidence Act apply, are concerned, the judgment of the Criminal Court is not admissible in evidence under sections 40 to 43 of the Evidence Act. The procedure of the quasi Judicial Tribunals, to which the provisions of the Evidence Act do not in terms apply, should conform to cardinal rules of evidence if injustice should be obviated. See Rex v. Kingston-Upon Hull Rent Tribunal (65 T.L.R. 209) and Moxon v. Minister of Pensions (1945 K.B. 490). Section 40 to 43 of the Evidence Act may be taken as embodying primary and fundamental principles governing admissibility of judgments and unless the assessees are able to bring their case within the permissible ambit of the said provisions, they may not be heard to rely on their success in the Criminal Court.The learned Advocate for the assessees, as already referred to, stresses that the Deputy Commercial Tax Officer, having elected to prosecute the assessees inviting necessarily a finding in regard to the account books, cannot, on finding that the event has gone against him, be allowed to ignore the result of the criminal case and the definite finding given by the Magistrate and claim to exercise his own judgment in regard to the accounts which form the very basis for the present assessment. The contention of the learned Advocate savours of an endeavour to raise a plea of estoppel. The principle of estoppel by election is well-known. No one can be allowed to take up inconsistent positions, to affirm and disaffirm or approbate and reprobate. But we can see nothing in the conduct of the department in resorting to a Criminal Court which would preclude an independent investigation for an assessment of tax. Neither the Sales Tax Act nor the rules provide for an election between the two courses. It is not as if the Sales Tax Officer is under an obligation to choose one of the two alternatives - a criminal prosecution and the making of an assessment. Both courses are open concurrently to the department. It is not infrequently that fiscal statutes, in particular, provide for cumulative sanctions. The Income-tax Act, for instance, not only provides for an assessment and a prosecution but also a penalty to be levied by the department itself. Action in respect of one of the sanctions is no bar to proceedings in the other directions. We see no point in the contention of the assessees.

20. Nor can the assessees seek shelter under the doctrine of autrefois acquit. That principle can apply only to a second prosecution for the same offence. The English decision cited for the assessees, King v. Captain Rosh (168 Eng. Reports 169), was a clear case of an offender, who had been acquitted in the earlier prosecution, being subjected to the order of a second criminal trial. The proceedings by the department to make an assessment in the case on hand can never be equated to a prosecution for an offence.The principle of res judicata embodied in section 11 of the Civil Procedure Code can have no application as the field of its operation is limited to civil actions; nor can the

department be precluded from proceeding with the assessment on the ground of acquiescence in the Magistrate's finding and decision. There is no other principle of law or equity which the assessees can urge as a bar to an independent investigation by the department or the Tribunal. In Jerome D'Silva v. Regional Transport Authority (1952 1 M.L.J. 35) cited for the assessees, the Madras High Court definitely limited the scope and ambit of the exception which they were making to the general rule of inadmissibility. In stating that if there is a conviction by a competent Criminal Court that would operate as a conclusive bar against any penal action by the transport authorities, their Lordships were limiting the ban to further action in the nature of a punishment or penalty by the quasi-judicial authority. We express no opinion on the question as it does not arise in the case in hand, inasmuch as assessment proceedings in the normal course cannot be characterised as penal or punitive. The finding of the Magistrate is not binding on the Tribunal and we hold that the Tribunal was right in rejecting the plea of acquittal by the Criminal Court.

21. The next question is whether the assessment can be sustained on merits. This is no doubt a border case. While the taxable limit has been fixed by section 3(3) of the Sales Tax Act at Rs. 10, 000 the estimate of which the department has made is at Rs. 12, 452-6-1 for 1952-53 and Rs. 10, 353-9-6 for 1953-54. As the quantum of turnover ordinarily is a question of fact, we feel disinclined to interfere with the concurrent findings of the three authorities. In fact, no attempt was made to prove before us by a reference to the documents filed in the case that there were no materials which could sustain the estimate. We see, therefore, no grounds to interfere.The revision petitions are dismissed with costs. Advocate's fee Rs. 50 in each.