

CWP-34352-2025 (O&M) -1-
CWP-35440-2025 (O&M)

CNR No: PHHC011850132025
2026.PHHC.124709-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 03.09.2026

253(1) CWP-34352-2025 (O&M)

PRATEEK ENTERPRISES

....PETITIONER(S)

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENT(S)

253(2) CWP-35440-2025 (O&M)

M/S PRATEEK ENTERPRISES

....PETITIONER(S)

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENT(S)

**CORAM:- HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present: Ms. Aakriti, Advocate for the petitioner.

Mr. Sourabh Goel, Addl.AG., Haryana.

ASHWANI KUMAR MISHRA, A.C.J. (Oral)

1. By this common order, the instant petitions are being disposed of.
2. These petitions seek to challenge order(s) of assessment dated 07.12.2017 (Annexure P-5 in CWP-34352-2025 and Annexure P-12 in CWP-35440-2025), primarily on the ground that the same were passed beyond the



period of limitation prescribed under Section 18(1)(i) of the Haryana Value Added Tax, Act, 2003 (**for short, “the HVAT Act”**). For brevity and in consideration of commonality in the issue involved, facts are noticed from CWP-34352-2025.

3. The undisputed facts of the case are that assessment orders were passed against the petitioner(s) for the Assessment Year 2004-05 on 24.03.2008 and Assessment Year 2003-04 on 05.03.2007, in the respective Writ Petitions. The said orders were challenged in appeals. In CWP-34352-2025, the appeal was allowed on 03.07.2008 , vide which, the following directions were issued:-

“As such, without discussing the other grounds of appeal challenging the merits of the case, in the interest of natural justice and fair play, the impugned order is set aside on the short ground as discussed above and case is remanded to the respondent with the direction to afford reasonable opportunity of being heard to the appellant and decide the case afresh, within three months, considering the explanation and evidence in VAT C-4 etc., if found in order, which the appellant may offer in support of his stand during the proceedings. Decided accordingly.”

4. Pursuant to the aforesaid order of remand, the matters were pending before the assessing authority. During the proceedings, the assessing authority had itself, recorded in the order sheets that, the prescribed period for passing a fresh assessment order had already expired. Notwithstanding the said observation, the impugned assessment orders dated 07.12.2017 came to be passed, which are under challenge in the present petitions.

5. Learned counsel for the petitioner while relying upon Section 18(1)(i) of the HVAT Act, submits that the period of limitation for passing the order for



assessment had already expired. The relevant statutory provision reads as under:

“18. Period of completion of assessment or assessment or reassessment not to apply in certain cases

(1) Notwithstanding the provisions relating to the period of limitation contained in Section 15, 16 and 17, assessment or reassessment, as the case may be, may be made;-

(i) In consequences of, or to give effect to, any order made by any Court, or any authority under this Act within a period of two years of receipt of copy of such order by the assessing authority;

(ii) xxxxxx.....”

6. Learned counsel for the petitioner has placed reliance upon the judgment of a Division Bench of this Court in ***CWP-1272-2017***, titled ***M/s D.S. Pannu and Associates Pvt. Limited Vs. State of Haryana and others*** decided on ***02.05.2018***, wherein the Co-ordinate Bench had interpreted the provision in question as mandatory and set aside the order of assessment. Para No.7 of the said judgment reads as under:-

7. Undisputedly, vide order dated 26.3.2013, Annexure P.2, respondent No.4 passed an ex parte assessment order under Section 15(5) of the HVAT Act raising a demand of ` 32,33,710/- as additional tax from the petitioner company. Aggrieved by the order, the petitioner filed an appeal before the Joint Excise and Taxation Commissioner (Appeals). Vide order dated 19.11.2013, Annexure P.3, the appeal was allowed and the case was remanded back to the assessing authority for denovo assessment with a direction to allow the TDS after verification. The assessing authority was directed to decide the case within one month from the date of receipt of the copy



of the order. Respondent No.4 did not initiate the assessment proceedings denovo. As per Section 18 of the HVAT Act, the limitation period for assessment in consequence of any order passed by any court or authority is two years from the date of receipt of copy of such order Section 18(1) of HVAT, the relevant portion thereof reads thus:-

“18. Period of completion of assessment or assessment or reassessment not to apply in certain cases

(1) Notwithstanding the provisions relating to the period of limitation contained in Section 15, 16 and 17, assessment or reassessment, as the case may be, may be made;-

(i) In consequences of, or to give effect to, any order made by any Court, or any authority under this Act within a period of two years of receipt of copy of such order by the assessing authority; CWP No. 1272 of 2017

(ii) xxxxxx.....”

In the present case, the initial assessment order dated 26.3.2013 had been set aside which was sent by registered post bearing No. 2791 dated 10.12.2013 as per Annexure P.7 appended alongwith replication. The assessment order in pursuance of remand order passed on 29.12.2016 as per Annexure R.1 attached with the written statement, was clearly barred by limitation as it had not been passed within the limitation period. Accordingly, the assessment of the petitioner company would be governed by Section 15(1) of the Act as a case of deemed assessment in terms of the return filed on 25.11.2010 wherein the petitioner had claimed refund on account of excess tax deposited/deducted towards its liability for the said year. Thus, the petitioner was entitled to refund of `30,42,838/- in accordance with law.”

7. Learned counsel for the respondents, on the other hand, has placed



reliance upon the provision itself and submitted that the use of the expression “may” in Section 18(1) of HVAT Act indicates that the provision is directory in nature. It is, therefore, submitted that the mere fact that the assessment order was passed beyond the period of two years would not render the assessment invalid. However, it is fairly submitted that no SLP against the order dated 02.05.2018 in CWP-1272-2017 has been preferred by the Revenue but on the other hand, the assessee in the said case had preferred an SLP bearing Diary No.20189/2021 for interest on refund and the same is still pending.

8. We have heard learned counsel for the parties and perused the material on record.

9. Section 15 of the HVAT Act provides for assessment and the period within which such assessment order is required to be passed is prescribed under sub-section (4) thereof, which reads as under:—

“4. If a dealer, having furnished returns in respect of a period, fails to comply with the terms of a notice issued under sub-section (2) or sub-section (3), the assessing authority shall, before the expiry of three years from the close of the year to which such returns relate, assess to the best of its judgment the amount of tax due from him.”

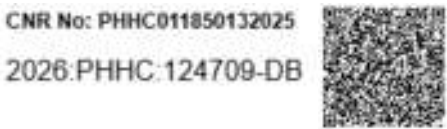
10. A perusal of the statutory scheme would clearly indicate that an order of assessment is required to be passed by the assessing authority, at any time before the expiry of three years from the end of the year to which the returns relate. The proceedings in the present cases pertain to the assessment years 2004-05 and 2003-04. The orders of assessment were passed on 24.03.2008 and



05.03.2007, i.e. within the prescribed period of limitation. The said orders, however, were subsequently interfered with in appeal. Section 18(1) of HVAT Act specifically provides for the period within which a fresh order of assessment is required to be passed where, the original order has been interfered with by a higher forum and a direction has been issued for passing a fresh order. Since, in such circumstances, the period prescribed under Section 15(4) of HVAT Act would have already expired, Section 18(1) of HVAT Act permits the assessing authority to pass a fresh order within a period of two years from the date of communication of the order of the higher forum. The use of expression “may”, in the facts and circumstances of the present cases, cannot be treated as directory, inasmuch as the period of limitation for passing an order of assessment has already been specified and the statute also prescribes the maximum period within which a fresh order can be passed after the original order has been interfered with by a higher forum. The object is to ensure that the proceedings are not kept pending indefinitely. Sub-section (2) of Section 18 of HVAT Act also throws light on the legislative intent, inasmuch as the period during which any order of stay remained operative is required to be excluded.

11. In *State of Punjab and another Vs. Anapurna Impex Pvt. Ltd.*, reported as **(2011) 46 VST 549**, this Court also has taken a view that a fresh order of assessment or an order upon remand has to be passed within the prescribed period of limitation.

12. In view of the aforesaid position, we find that the assessing authority having itself acknowledged on an earlier occasion that the proceedings had become time-barred and having recorded the same in the order sheets, could not



have proceeded to pass a fresh order of assessment much beyond the period of limitation as prescribed under Section 18(1) of HVAT Act.

13. Thus, the impugned orders of assessment dated 07.12.2017 (Annexure P-5 in CWP-34352-2025 and Annexure P-12 in CWP-35440-2025) having been passed past the prescribed period of limitation are unsustainable in law and liable to be quashed. Accordingly, the present petitions stand disposed of.

14. All pending miscellaneous application(s), if any, shall also stand disposed of.

15. A photocopy of this order be placed on the file of the connected case.

(ASHWANI KUMAR MISHRA)
ACTING CHIEF JUSTICE

(YASHVIR SINGH RATHOR)
JUDGE

03.09.2026
Priyanka Thakur

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|------------------------------|--------|
| 1. Whether Speaking/reasoned | Yes/No |
| 2. Whether Reportable | Yes/No |