IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 15695 of 2014
Date of Decision:- 27.04.2015

Sony India Pvt. Ltd. ......Petitioner(s)

vs.

Union Territory of Chandigarh and another ......Respondent(s)

(ii) **CWP No. 15706 of 2014**
Date of Decision:- 27.04.2015

Sony India Pvt. Ltd. ......Petitioner(s)

vs.

Union Territory of Chandigarh and another ......Respondent(s)

CORAM:- HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present:- Mr. J.S. Sidhu, Advocate, for the petitioner.

Mr. Sanjeev Sharma, Sr. Advocate, with Mr. Sanjiv Ghai, Advocate, for the respondents.

S.J. VAZIFDAR, A.C.J. (Oral)

The petitioner has challenged notices issued under Section 29 (4) of the Punjab Value Added Tax Act, 2005 (as applicable to the U.T., Chandigarh) (in short 'the Act'). The returns in respect of the above writ petitions were filed on 19.11.2008 and 20.11.2009. The last dates for completion of the assessment under Section 29(4) were, therefore, 20.11.2011 and 20.11.2012 respectively. Admittedly, the completion of the best judgment assessment was done after the period of 3 years namely on 11.07.2014 in both the cases. Section 29(4) of the Act reads thus:-

> *"SECTION 29. ASSESSMENT OF TAX:*
>
> *(4) An assessment under sub-section (2) of sub-section (3), may be made within three years after the date when the annual statement was filed or due to be filed, whichever is later;*

PROVIDED THAT where circumstances so warrant, the Commissioner may, by an order in writing, allow assessment of a taxable person or a registered person after three years, but not later than six years from the date, when annual statement was filed or due to be filed by such person, whichever is later.

The present cases are covered in favour of the petitioner by a judgment dated 20.08.2013 passed by a Division Bench of this Court in a group of matters, the first of which is ***VATAP No. 84 of 2013, State of Punjab vs. M/s. Olam Agro India Ltd.*** The Division Bench held that Rule 86 of the Rules does not envisage service of a general notice or by publication on the website of the department. The Division Bench held that the service of an individual notice is a *sine qua non* for invoking powers and the absence of such individual notice renders the assessment orders illegal and void.

Admittedly, in the present cases, individual notices were not given. Even in the present cases, general notices were put up on the website. In view of the judgment of the Division Bench, this is insufficient.

Rules are, therefore, made absolute in each of the petitions in terms of prayers (i) to (iv).

We are informed that there is a possibility of the Section being amended.

Needless to add that we express no opinion in the event of the same being done.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

27.04.2015
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