IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 20901 of 2015

Date of Decision: 30.9.2015

M/s Shiwalya Spinning & Weaving Mills Pvt. Ltd., Ludhiana

....Petitioner.

Versus

The State of Punjab and another

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.

PRESENT: Mr. Rishab Singla, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus for declaring Section 6 of the Punjab Value Added Tax Act, 2005 (in short "the Act") as unconstitutional as it extends the period of limitation for the year 2006-07 upto 20.11.2014 even though the assessment had already become time barred in view of proviso to Section 29(4) of the Act on 20.11.2010. Further, a writ of certiorari has been sought quashing the order dated 11.11.2014 (Annexure P-2) framing the assessment for the year 2006-07 on the basis of shortfall in some documents demanded under Section 44 of the Act according to which the books are required to be maintained only for a period of six years from 31.3.2007.

2. The petitioner is engaged in the business of manufacturing, purchase and sale of steel goods. The petitioner had filed its returns on 20.11.2007 for the year 2006-07 on quarterly basis in Form VAT-15. On

the basis thereof, annual statement in Form VAT-20 was also filed showing a gross sale of ₹ 101,16,17,888/-. As per the provisions of Section 29(4) of the Act, the assessment was to be framed within a period of three years from the date of filing of the annual statement. However, the Commissioner has the power to extend the said period of three years upto 6 years which he can do by an order in writing. In the present case, the assessment was to be framed upto 20.11.2010. Subsequent to the order passed by this Court, the State Government issued a notification dated 15.11.2013 (Annexure P-1) amending Section 29(4) of the Act along with other Sections. Even though the assessment was barred by limitation, assessment proceedings were initiated by respondent No.2 and a notice was issued to the petitioner for appearance on 11.11.2014 on which date the period for retention of books had already expired as per Section 44 of the Act. The assessing authority raised a demand of ₹ 13,40,135/- vide order dated 11.11.2014 (Annexure P-2). Hence, the present writ petition.

3. Learned counsel for the petitioner very fairly stated that the issue raised herein is covered against the petitioner in view of the Division Bench judgment of this Court in **CWP No. 21811 of 2014 (M/s Amrit Banaspati Company Limited v. The State of Punjab and others)** decided on 7.8.2015.

4. In view of the above, the writ petition is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

September 30, 2015 **(RAMENDRA JAIN)**
gbs **JUDGE**