IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VATAP No. 71 of 2014 (O&M)

DATE OF DECISION: 07.08.2015

State of Punjab and others …..Appellants

versus

M/s Chirag Industries .....Respondent

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

Present: Mr. Jagmohan Bansal, Addl. Advocate General, Punjab for the appellants.

..

S.J. VAZIFDAR, ACTING CHIEF JUSTICE:

CM No.12286-CII of 2014

Heard. In view of the averments made in the application, delay of 205 days in filing the appeal is condoned. Application stands disposed of.

CM No. 12287-CII of 2014

Heard. Exemption from filing certified copies of Annexures A-1 to A-4 is granted. Application stands disposed of.

Vat Appeal No. 71 of 2014

The present appeal has been filed under section 68 of the Punjab Value Added Tax Act, 2005 (hereafter referred to as 'the Act') against the order dated 16.05.2013 passed by the Value Added Tax Tribunal, Punjab.

2. The assessment order in question is 2006-07 and the assessment was framed on 22.07.2011 whereby additional demand of ₹ 15,24,148/- was created by the Designated Officer. The said assessment was in view of the extension granted by the Excise & Taxation Commissioner under Section 29(4) of the Act, which extension order was uploaded on the website on 15.11.2010 and a public notice had also been issued in the press on 22.10.2010. The appeal was dismissed by the First Appellate Authority on 16.11.2010 (Annexure A-2) and the demand was confirmed. The Tribunal has noticed that the extension had never

been confronted to the assessee and neither any order had been passed which was communicated to the assessee. Accordingly, keeping in view the judgment of this Court in *A.B.Sugars Limited v. The State of Punjab and others 2010(29) VST 538 (P&H)*, it was noticed that the last date for filing the return was 20.11.2007 and the assessment was to be finalized within three years from the said date and the assessment order had to be passed by 20.11.2010. Accordingly, it was held that the assessment order passed on 22.07.2011 was time barred.

3. In similar circumstances where extension orders had been put on the website and not communicated, while placing reliance upon VAT Appeal No. 84 of 2013 *State of Punjab v. M/s Olam Agro India Ltd.* notices under section 29(4) of the Act, were set-aside in Civil Writ Petition No. 15695 of 2014 *Sony India Pvt. Ltd. v. M/s Olam Agro India Ltd.* on 27.04.2015. The relevant portion whereof reads as under:-

> "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."

4. Resultantly, the present appeal is dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

07.08.2015
ravinder

(G.S. SANDHAWALIA)
JUDGE

RAVINDER SHARMA
2015.08.21 10:19
I attest to the accuracy and
authenticity of this document