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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.9492 of 2001 (O&M)
Date of Decision: 24.08.2018

M/s Bimal Refractories and Ceramic Industry, Malerkotla
...... Petitioner

Versus

The State of Punjab and others
.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Ms. Anu Pal, DAG, Punjab.

RAJESH BINDAL J.

The petitioner had filed the present petition impugning the notice dated 10.04.2001 issued under Section 21(1) of the Punjab General Sales Tax Act, 1948 (for short 'the Act') seeking to revise the order of assessment for the year 1988-89. Though in pleadings different grounds have been raised however, the ground of delay and latches in issuing the notice 13 years' after the close of the assessment years is good enough to set aside the same.

Aforesaid legal issue has been gone into by Hon'ble the Supreme Court in 2007(11) SCC 363 - '*State of Punjab and others vs/ Bhatinda District Coop. Milk P. Union Ltd.*' where Hon'ble the Supreme Court opined that five years should be considered as reasonable period for exercising *suo motu* power under Section 21 of the Act in which no period of limitation has been prescribed. The notice issued after 5½ years in that case was set aside.

Keeping in view the aforesaid enunciation of law and the notice in the present case for the assessment year 1988-89 having been issued on 10.04.2001 deserves to be set aside on the ground that the same has not been issued within reasonable time.

The writ petition stands allowed.

(RAJESH BINDAL)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

24.08.2018
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No