**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP No.1520 of 2018
Date of decision: 13.11.2019**

Deep Chand Rajesh Kumar through its proprietor Bharti Gupta

.....Petitioner

versus

State of Haryana and another

....Respondents

**CORAM: Hon'ble Mr. Justice Jaswant Singh
Hon'ble Mr. Justice Girish Agnihotri**

Present: Mr. Sandeep Goyal, Advocate
for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana.

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GIRISH AGNIHOTRI, J.

1. The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of certiorari for quashing of order dated 07.09.2017 (Annexure P-17), passed by respondent No.2/Excise and Taxation Officer, Gurugram (South), being barred by limitation as the same has been passed after expiry of one year in relation to proceedings initiated under Section 29 for the inspection carried out on 30.06.2016.

2. The petitioner is stated to be engaged in the business of trading of tobacco products i.e. cigarettes etc. The petitioner is a dealer registered under the provisions of Haryana Value Added Tax Act, 2003 (hereinafter called as 'Act 2003').

3. It is contended by the petitioner that it had been regularly filing its returns in accordance with law. It is further the pleaded case of the petitioner that all its purchases are made from those dealers, who have discharged their tax liabilities. The assessment order(s) of the petitioner for the assessment years 2011-12, 2012-13 & 2013-14 are appended with the writ petition as Annexures P-3, P-4 & P-5 respectively. It is then submitted that on 30.06.2016, business premises of the petitioner were inspected by way of a surprise inspection by a team of officers of Excise and Taxation Department, Haryana. In the writ petition, though there is then reference to some correspondence, but for the sake of brevity, learned counsel for the petitioner has drawn attention of this Court to the proviso to Section 29(4) of 'Act 2003', relevant portion of the same has been reproduced herein below:-

> *"Provided further that any proceedings taken up as a result of examination of seized material shall be concluded before the expiry of one year from the date of the seizure except that the proceedings may, with written permission of the Commissioner, continue for one more year."*

Counsel for the petitioner by making reference to the above proviso to Section 29(4) of the 'Act 2003', submits that proceedings have taken up as a result of examination of seized material, have to be concluded before expiry of one year from the date of seizure. According to the petitioner, the proceedings in this case, thus, had already become time barred on 30.06.2017 (i.e. on expiry of one year from the date of seizure i.e. 30.06.2016).

4. To complete the narration of facts, counsel for the petitioner then submits that the petitioner is aggrieved of order dated 07.09.2017 (Annexure P-17), along with notice of demand dated 07.09.2017, raising a demand of Rs.1,60,37,070/- (one crore sixty lacs thirty seven thousand seventy only) on account of inspection case being carried out against the petitioner in pursuance to the inspection dated 30.06.2016.

5. The petitioner thus, in the present writ petition has prayed for an issuance of writ in the nature of certiorari for quashing of the order dated 07.09.2017 (Annexure P-17), passed by respondent No.2 being time barred by limitation as the same has been passed after expiry of one year in relation to proceedings initiated under Section 29 of the 'Act 2003' for the inspection carried out on 30.06.2016. On 24.01.2018, this Court had issued notice of motion, returnable on 14.02.2018. On 10.05.2018, written statement dated 08.05.2018, to the writ petition was filed by Shri Ashok Setia, Excise and Taxation Officer, Gurugram (South) on behalf of respondents No.1 & 2. In Para 3 of the preliminary submissions, it has brought on record that, as required under Section 29 of the 'Act 2003', the Excise and Taxation Commissioner, Haryana was requested to accord permission for extension of time for the retention of impounded documents up to 31.12.2017 vide office memo No.816 dated 07.06.2017. It is further stated that on 14.09.2017, the Excise and Taxation Commissioner, Haryana was again requested to grant permission.

6. Importantly, neither in the written statement dated 08.05.2018, nor till date, it has been brought to the notice of this Court that actually, the

permission as required (under proviso to Section 29 of the 'Act 2003', which is stated to have been sought for on 07.06.2017 and again on 14.09.2017), was ever granted by the Competent Authority. It is further evident that the impugned order in the present case is dated 25.08.2017, whereas, as per the written statement filed by respondents No.1 & 2, it was again on 14.09.2017, the Excise and Taxation Commissioner, Haryana, has been requested to grant permission. It is evident from the above that such kind of situation is not covered under Section 29 of the 'Act 2003'.

7. Resultantly, the impugned order dated 07.09.2017 (Annexure P-17), passed by respondent No.2/Excise and Taxation Officer, Gurugram, is quashed being beyond the scope of Section 29 of the 'Act 2003'.

8. Accordingly, the present writ petition is allowed.

9. No order as to costs.

(JASWANT SINGH) **(GIRISH AGNIHOTRI)**
JUDGE **JUDGE**

13.11.2019
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Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No