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

Sr. No.465

CWP No.17012 of 2002 (O&M)
Date of Decision : 25.02.2020

M/s Escorts Limited, Faridabad ...... Petitioner

Versus

State of Haryana and another ...... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE AVNEESH JHINGAN**

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Present : Ms. Manveer Narang, Advocate
for Mr. Vikram Jain, Advocate
for the petitioner.

Ms. Mamta Singla Talwar, D.A.G., Haryana.

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AJAY TEWARI, J. (ORAL)

1. By this petition the petitioner has challenged action of the Tribunal in initiating suo-moto review proceedings.

2. The case relates to the Assessment year 1989-90. Ultimately the matter was concluded by judgment and order dated 24.06.1994 passed by the Sales Tax Tribunal, Haryana. Eight years later, the department filed an application for reviewing the order dated 24.06.1994 alongwith an application for condonation of 7 years delay (since the limitation for filing application for review before Haryana Sales Tax Tribunal was one year). By order order dated 30.05.2002 (Annexure P-5), the Tribunal rejected the

prayer for condonation of delay but strangely noticed that there was an alternate prayer for initiating review proceedings under the suo-moto powers and after having taken recourse to that, by order dated 12.09.2002 (Annexure P-6) initiated review proceedings.

3. Counsel for the petitioner has argued that there was no justification for the Tribunal to have taken resort to the suo-motto powers of review. In this connection, Section 41 of the Haryana General Sales Tax Act, 1973 is reproduced herein below:-

> *"41. Review- (1) An assessing authority or any person considering himself aggrieved by an order of the Tribunal or any office above the rank of an Excise and Taxation Officer under this Act and who, from the discovery of any new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when such order was made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason desires to obtain a review of the order made against the State or him, may apply for a review of such order to the Tribunal or such officer, as the case may be.*
>
> *(2) The application for review shall be preferred within one year from the date of the order sought to be reviewed in the manner prescribed and where the application is preferred by any party other than a departmental authority it shall be accompanied by such fee not exceeding one hundred rupees, as may be prescribed.*
>
> *(3) The Tribunal or the officer referred to in sub-section(1), as the case may be, of his own accord at any time or on an application made to it or him, after giving notice to the parties concerned, review any order made by it or him on the grounds mentioned in sub-section(1),"*

4. The view taken by the Tribunal is clearly illegal. The Tribunal found that there was no ground for condoning the delay of almost 7 years and rejected the claim of the department even though it was the case of the department that there was an error apparent on the face of the record and on the basis of the same the Tribunal invoked suo-moto powers. In our considered opinion, this was impermissible. Not only that, even in an Act where no period of limitation has been prescribed therefor, the same would not mean that the suo-motu power can be exercised at any time as has been held by the Supreme Court in the matter of ***State of Punjab and others vs. Bhatinda District Cooperative Milk Producers Union Ltd., (2007) 11 Supreme Court Cases 363.*** In that case, the Supreme Court has held as follows:-

> *"17. A bare reading of Section 21 of the Act would reveal that although no period of limitation has been prescribed therefor, the same would not mean that the suo motu power can be exercised at any time.*
>
> *18. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.*
>
> *19. Revisional jurisdiction, in our opinion, should ordinarily be exercised within a period of three years having regard to the purport in terms of the said Act. In any event, the same should not exceed the period of five years. The view of the High Court, thus, cannot be said to be unreasonable........"*

5. Resultantly, the matter is no longer res integra and for the

above mentioned reasons, the impugned orders dated 30.05.2002 (Annexure P-5) and 12.09.2002 (Annexure P-6) have to go. Consequently, the writ petition is allowed and the impugned orders are set aside.

6. Since the main case has been decided, the pending C.M. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

February 25, 2020
ashish

Whether speaking/reasoned Yes/No

Whether Reportable : Yes/No