

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

219

CWP-1629-2005 (O&M)
Date of decision:- 10.02.2023

M/S ATUL FASTENERS LTD.

.... Petitioner

VS

THE STATE OF PUNJAB AND ANOTHER

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Sandeep Goyal, Advocate with
Mr. Ishaan Loomba, Advocate for the petitioner.

Mr. Saurabh Kapoor, Addl. A.G. Punjab.

Ritu Bahri, J. (Oral)

In the present petition, petitioner has sought for quashing of the orders dated 29.10.2004 Annexures P-12, P-13 passed by the Assistant Excise & Taxation Commissioner(I)-cum-Assessing Authority, Ropar whereby the reassessment under Section 11-A(1) of the PGST Act, 1948 read with Section 9(2) of the CST Act, 1956 has been done.

Prior to passing of the orders Annexures P-12 and P-13, original assessment order had already been passed on 19.11.2003, Annexure P-14 under Section 11(2) of the PGST Act, 1948, which is also under challenge in the present petition.

The main ground for challenging the re-assessment order is that the re-assessment order with respect to the assessment year 1998-

1999 ought to have been passed before 20.04.2003 and the re-assessment ought to have been completed beyond 5 years i.e. 19.11.2003.

On notice of this petition, reply has been filed by respondents No.1 and 2 wherein preliminary objection has taken that the impugned orders, Annexures P-12 and P-13 have been challenged by way of the present writ petition under Article 226/227 without exhausting the alternate remedy of appeal and revision under Sections 20 and 21 of the PGST Act, 1948.

The written statement was filed on 13.04.2005. When this writ petition was admitted on 04.07.2005, the operation of the impugned orders was stayed.

The Punjab VAT Act has come into force w.e.f. 01.04.2005. However, the petitioner's right of appeal still survives and without commenting on the merits of the case, this writ petition is being disposed of giving liberty to the petitioner to avail the alternate remedy in accordance with law, if so advised within four weeks.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

10.02.2023
pooja saini

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No