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

(110) **CWP-26567-2023**
Decided on : 18.12.2023

M/s Sumit Wool Processors

……Petitioner(s)

Versus

State of Punjab & others ……Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE DEEPAK MANCHANDA

Present: Mr.G.S.Madaan, Advocate for the petitioner (s).

*****

G.S. Sandhawalia, J. (Oral)

1. Challenge in the present writ petition, filed under Article 226 of the Constitution of India is to the assessment order dated 30.12.2015 (Annexure P-1) on the ground that no notice under Section 29(3) of the Punjab Value Added Tax Act, 2005 (for short, the 'Act') was issued while passing the said order.

2. There are various legal hurdles on account of which the present writ petition is not liable to be entertained. A perusal of the file would show that the assessment order was firstly challenged before the Appellate Authority namely the Value Added Tribunal, Punjab but the necessary pre-deposit as required under Section 62 (5) of the Act was not made. Resultantly, the appeal having been dismissed on 24.10.2019, the said order was challenged by way of filing CWP-1005-2020 which was dismissed on 30.01.2020 (Annexure P-2) on the ground that the Tribunal had no power to waive the condition of pre-deposit of 25% while placing reliance upon the judgment of the Apex Court in **M/s Technimont Pvt. Ltd. Vs. State of Punjab & others, 2019 (9) JT 303**.

3. Apparently, the petitioner has not challenged the said order which has become final. After a period of three years now the assessment order has been challenged whereby the right of appeal has been foreclosed on account of lack of pre-deposit. In such circumstances, we are of the considered opinion that writ jurisdiction cannot be invoked to circumvent the filing of the appeal in which the pre-deposit had to be done before it could have been heard on merits. Therefore, the present writ petition is maintainable on that account.

4. On the limited issue of jurisdiction on the ground that no notice had been issued, we also are of the considered opinion that if on the said point the petitioner had to agitate he could only have done so immediately at the time when the order was passed in the year 2015 and not after a period of eight years.

5. Accordingly, for both the reasons mentioned above, the present writ petition is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

(DEEPAK MANCHANDA)
18.12.2023 **JUDGE**
sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No