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

CWP-30234-2022 (O&M)
Date of decision:12.01.2023
Reserved on: 04.01.2023

Paramjit Singh ....Petitioner

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Paramjit Singh, petitioner in person

ANIL KSHETARPAL, J (Oral)

1. While invoking the extraordinary jurisdiction of the High Court under Article 226/227 of the Constitution of India, the petitioner prays for quashing his dismissal from services vide order dated 21st, January 2021, which has also been affirmed in appeal by the Government. The petitioner has appeared in person. He has been heard at length. The petitioner was working as Excise and Taxation Inspector. As per the charges imputed, the petitioner passed assessment orders with regard to the dealers/assessee having a high turnover. Despite being directed to handover the disposal register during a meeting dated 10.12.2014, he did not comply with the same. On checking of his cupboard, no register was found. However, on being directed, he brought the same within two hours. On looking at the register, it was found that

it has not been properly maintained. Though the petitioner has produced the translated copy of the chargesheet, however, it suffers from multiple errors. It was observed that while passing the assessment orders assessing the liability to pay tax in 194 files, he created an additional demand of Rs.65,078.00 only. The entries in the register were also not consistently made. Certain entries were found to have been made, which were impractical. It was also observed that he passed the orders of assessment of the dealers whose cases were pending with the other Excise and Taxation Officers and one among them was pending with the Assistant Excise and Taxation Commissioner, Jalandhar-1. It is stated that the petitioner admitted his mistake in the presence of the witnesses. He has also admitted that he passed orders of assessment involving a turnover upto the amount of Rs.65 crores in 38 cases from the back date. The important details of the charges have been compiled in a tabulated form, the relevant part thereof is extracted as under:-

Sr. No.	**Name of the firm**	**Year**	**Special remarks**	
6.	M/s A.V. Iron & Steel Store	2010-11	No additional demand was created by you	The AETC Jal-I has created additional demand Rs.2,76,19,941
7.	M/s Jay Kay Iron Store	2009-10	Mr. Paramjit Singh ETI has assessed this case as per disposal register, but the dealer has neither made available copy of assessment order nor opposed the action under Section 29(2)	This case was assessed by M.L.Sharma ETO on 6/2/2015 and created additional demand of Rs.1,84,94,709

8.	M/s Jay Kay Iron Store	2010-11	Mr. Paramjit Singh ETI has assessed this case as per disposal register, but the dealer has neither made available copy of assessment order nor opposed the action under Section 29(2)	This case was assessed by M.L.Sharma ETO on 6/2/2015 and created additional demand of Rs.3,22,95,620
9	M/s Jay Kay Iron Store	2012-13	Mr. Paramjit Singh ETI has assessed this case as per disposal register, but the dealer has neither made available copy of assessment order nor opposed the action under Section 29(2)	This case was assessed by M.L.Sharma ETO on 6/2/2015 and created additional demand of Rs.3,67,17,626/-
10.	M/s K.V.Steels	2009-10	Mr. Paramjit Singh ETI has assessed this case as per disposal register, but the dealer has neither made available copy of assessment order nor opposed the action under Section 29(2)	This case was assessed by M.L.Sharma ETO on 6/2/2015 and created additional demand of Rs.1,05,76,781/-
11.	M/s K.V.Steels	2011-12	Mr. Paramjit Singh ETI has assessed this case as per disposal register, but the dealer has neither made available copy of assessment order nor opposed the action under Section 29(2)	The AETC Jal-1 has created additional demand Rs.2,48,50,806/-
12.	M/s Madan Sales Corpn.	2011-12	This case has been assessed by you in which no additional demand was created	The AETC Jal-1 has created additional demand Rs.22,00,719
13.	M/s Madan Sales Corpn.	2012-13	This case has been assessed by you in which no additional demand was created	The AETC Jal-1 has created additional demand of Rs.45,35,086/- under section 65(1)
14.	M/s S.K.Steel Sales Corporation	2010-11	This case has been assessed by you in which no additional demand was created	The AETC Jal-1 has created additional demand Rs.43,85,581/- under Section 65(1)

2. It was also found that on scrutiny of the aforesaid cases, the Excise and Taxation Officer, Jalandhar and Assistant Excise and Taxation

Commissioner, Jalandhar had to create an additional demand of an amount of Rs.16,17,62,222/-.

3. Alongwith the statement of charges, the petitioner was informed that he can inspect the relevant documents by coming to the office on any working day. The petitioner submitted his reply to the charge-sheet. He took a stand that Assistant Excise and Taxation Commissioner is prejudiced against him and though he has been sent the copies of the documents, however, some additional information shall be required. He filed an application for supply of certain documents. Thereafter, he proceeded to file a detailed reply while taking a stand that the Assistant Excise and Taxation Commissioner, Jalandhar, forced him to make the confession and admission under duress and coercion. He further stated that it is possible that there might be some mistakes due to his inexperience, but there was no malafide intention. Subsequently, he has taken a stand that he never confessed his mistake in the presence of the witnesses but he was forced to sign on blank papers under duress and coercion.

4. Ultimately, a departmental inquiry was held and in the report, charges against the petitioner were held to be proved. The petitioner was supplied with a copy of the report in order to file his defence. The Commissioner of Sales Tax, Punjab, after granting an opportunity of hearing to the petitioner dismissed him from service in exercise of powers under Rule 5(IX) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. It is recorded in the concerned order that the petitioner has not only proceeded to assess the cases which

were not allocated to him, but he has also ante dated the orders. On 20.10.2020, the Officer granted personal hearing to the petitioner. Before the competent authority, he admitted his mistake that he proceeded to pass the assessment orders without the concerned cases being allotted to him. He also admitted his mistake with regard to charge no.2, 3 and 4, however, he claimed that it may be on account of a clerical mistake. The competent authority, as already noticed, passed the order of dismissal. The appeal filed by the petitioner has also been dismissed vide order dated 2nd September 2022.

5. Heard the petitioner at length and with his able assistance perused the paperbook. The documents filed by the petitioner have not been correctly translated. The petitioner has made the following submissions:-

1) No proceedings can be initiated as the petitioner has passed the orders of assessment as a quasi judicial Authority. He submits that as per Section 89 of the Punjab Value-added Tax Act, the proceedings cannot be initiated against the petitioner. Section 89 is extracted as under:-

> *"89. No suit, prosecution or other legal proceedings shall lie against any officer or servant of the State Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder."*

6. It is evident that Section 89 of the Punjab Value Added Tax Act, 2005 only debars that no suit, prosecution or other legal proceeding can lie against an officer or servant of the State government for anything, which is done or intended to be done in good faith. However, the

departmental proceedings would not fall within the definition of other legal proceedings. Moreover, in the present case, both the authorities have found that the action of the petitioner was not in good faith.

7. The petitioner has made a grievance of the fact that the documents have not been supplied to him. It may be noticed here that while issuing the substance of imputated charges, the petitioner was granted an opportunity to inspect the record. While filing the reply, the petitioner has admitted that certain documents have been supplied to him. However, he had made a grievance that some other relevant documents were omitted to be supplied. It is not the case of the petitioner that he went to inspect the record but the same was not made available to him. Once the petitioner has been offered to inspect the records, he cannot insist upon the supply of documents or question the failure to supply some of them. From the reading of the impugned order, it is evident that the petitioner did not submit any grievance in this regard, at any earlier stage of the proceedings. Moreover, this Court is examining the matter in the exercise of enabling power of judicial review wherein the scope of interference is limited. It is evident that though the petitioner claims to have passed orders of assessment of the various firms, however, neither, the orders are available nor the parties have opposed the action under Section 29(2) of the Punjab Value Added Tax Act, 2005. There is a huge additional demand of tax to the extent of Rs.16,17,62,222/-. The disposal diary is also prepared in a haphazard manner. The petitioner has admitted ante dating 38 assessment orders against firms with turnover upto Rs.64 crores. In such circumstances, this

Court does not find it appropriate to exercise the power of judicial review in favour of the petitioner, particularly when he has not only admitted his mistake/fault before the Sales Tax Commissioner, but also, at the initial stage, when the disciplinary proceedings were sought to be initiated against him. Consequently, finding no merit, the writ petition is dismissed in liminie.

8. All the pending miscellaneous applications, if any, are also disposed of.

12.01.2023 **(ANIL KSHETARPAL)**
rekha **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No