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

(108) **LPA-179-2023 (O&M)**
Decided on : 08.02.2024

Paramjit Singh ……Appellant(s)

Versus

State of Punjab & another ……Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S.SANDHAWALIA
THE ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present:- Appellant-in-person.

Mr.Saurav Varma, Addl.A.G., Punjab, for the respondents.

G.S. Sandhawalia, Acting Chief Justice (Oral)

1. Consideration in the present appeal is to the order dated 04.01.2023 passed by the Learned Single Judge in CWP-30234-2022 filed by the appellant which has been dismissed. The end result is that the dismissal order dated 21.01.2022 (Annexure P-10) had been upheld along with the order passed in statutory appeal which was passed on 02.09.2022.

2. The objection taken by the appellant before the Learned Single Judge was that the order of assessment has been passed by him as a quasi-judicial authority while working as Excise & Taxation Inspector and therefore, he sought protection of Section 89 of the Punjab Value Added Tax Act, 2005. The same provides that no suit, prosecution or other legal proceedings would lie against the officer and thus the departmental proceedings would not fall within the definition of other legal proceedings. It was noticed that the appellant had raised grievances regarding relevant documents not being supplied but it was recorded that he had not inspected the record and it was not his case that the same was not made available.

3. Learned Single Judge noticed that while examining the matter in exercise of power of judicial review, the scope for interference was limited. The assessment orders showed huge additional demand of tax and the disposal diary was also prepared in a hurried manner. There was an admission that he had made ante-dated assessments in 38 cases with turnover of about Rs.64 crores and after the appellant had admitted his mistakes before the Sales Tax Commissioner at the initial stage wherein disciplinary proceedings were initiated against him. Thus, the Learned Single Judge had not exercised his extraordinary jurisdiction in writ proceedings. The Learned Single Judge had also extracted the details from the charge-sheet in a tabulated form regarding the 38 cases whereby the assessment orders were passed from back dates wherein additional demand were made on the said firms. Same reads 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	This case was assessed by M.L.Sharma ETO on 6/2/2015 and

			available copy of assessment order nor opposed the action under Section 29(2)	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)

4. A perusal of the charge-sheet dated 01.09.2015 (Annexure P-3) would go on to show that the sum and substance of the charges against the writ petitioner was as under:

> "1. 194 assessments have been famed with an Addl. Demand of Rs.65078.00 only.
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> 2. Sr.No. of Register is 74 on 17.12.13 and Sr.No.1 has been entered on 25.3.14 which is not possible during one financial year i.e. 2013-2014.
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> 3. Page No.17 contains Sr.No.106 to 109 dated Aug. 13 but Page No.18 contains Sr.No.1 and name of the month is April, 2013.
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> 4. Page No.23 contains Sr.No.33 dated 05.02.2014 but Page No.24 also contains Sr.No.33 dated 19.11.2013 which is not possible.
>
> You had done assessment of the cases of those dealers, which cases were pending proceedings with other Excise & Taxation Officer and one case was pending proceedings with

> Assistant Excise & Taxation Commissioner, Jalandhar-1. These cases are very important, which involves heavy Government revenue. But you had done the assessment of these cases without file and without declaration forms in connivance with few Accountants. These cases have been entered in the Disposal Register in the back dates and have been shown with very less additional demand/nil demand. You have accepted mistake in front of witnesses and have sought excuse. You had again told that you have entered 38 cases in the back dates. The turnover of these cases is upto Rs.65 Crores."

5. The report of the Assistant Excise & Taxation Commissioner, Jalandhar-1 with regard to the proceedings undertaken under Section 65(1) of the Punjab VAT Act, 2005 and the details were also subject matter of charge-sheet. The allegation, thus, under Rule 8 of the Punjab Civil Services (Punishment & Appeal) Rules, 1970 was that the appellant had taken out additional demand of Rs.5000/- in 14 cases referred whereas Excise & Taxation Commissioner, Jalandhar-1 and Assistant Excise & Taxation Commissioner, Jalandhar-1 had taken out additional demand of Rs.16,17,62,222/- in the said cases.

6. The Enquiry Officer, who was Joint Excise & Taxation Commissioner, in its report dated 13.12.2016 (Annexure P-5) noticed that the Disposal Register was not being maintained in the office and was got from the house. 194 cases had been assessed and additional demand of only Rs.65,078/- had been made. The assessment which had been done was already under consideration of other ETO's and AETC and were very important cases in which heavy Government revenue was involved. The appellant had entered those cases in Disposal Register with back dates and nil/paltry additional demand and by entering 38 cases of the assessees with back dates whose turnover was upto Rs.65 crores, had caused loss to the

Revenue. On the basis of the said enquiry report the appellant was asked to furnish his reply by providing a copy of the same to which he had submitted his reply.

7. Before passing the order of dismissal on 21.01.2021 (Annexure P-8), the appellant was given a personal hearing on 20.10.2020. The relevant part of the reasoning given in the dismissal order reads as under:

> "The undersigned has personally heard the employee on 20-10-2020. During personal hearing, the undersigned has enquired about abovementioned irregularities whether 194 cases which he assessed were allotted to him by some senior officer. Regarding this he told that Excise & Taxation Inspectors were conferred the power of assessment, but he did not know that the cases would be allotted before framing assessment. He has admitted his mistake that he has framed assessment without the allotment of any senior officer. He admitted his mistake for irregularity no.2, 3 and 4 and said that it may be clerical mistake.
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> Besides this, regarding non availability of disposal register in Almirah he told that there were two almirahs. The lock of one Almirah was broken, while he forgot the key of other Almirah at house. Regarding the creation of additional demand of Rs.16,1762,222/- in 14 cases which have been reassessed by Excise & Taxation officer Jalandhar and Assistant Excise & Taxation Commisioner Jal-1, he told that only an amount of about Rs.70,000/- has been recovered so far and other cases are pending in appeals.
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> The officers competent to frame assessment under Punjab VAT Act are Excise & Taxation Officers or seniors to these. The Government, by letter or notification can notify the Excise & Taxation Inspector as competent authority to assess VAT cases. After notification Excise & Taxation Inspector can assess those cases which are to be allotted to him by assistant Excise & Taxation Commissioner or any other senior officer. But in this case Mr.Paramjit Singh, Excise & Taxation Inspector assessed those cases which were not allotted to him and which are under

> the consideration of other Excise & Taxation Officer and Assistant Excise & Taxation Commissioner. These cases were very important and heavy revenue was involved. But Mr.Paramjit Singh has assessed these cases without any file and declaration forms with the connivance of some Accountants. In these 14 cases, this employee has created additional demand of Rs.5000/- while higher authorities has created additional demand of about Rs.16 crore. It is clear from this that Paramjit Singh; Excise & Taxation Inspector has misused his power against the policies of Government rules of Act. It shows his malafide intention by the result of which there might be loss of Government Revenue.
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> Mr.Paramjit Singh, Excise & Taxation Commissioner has created very low or nil demand and entered cases in disposal Register in back dates to hide his improper working. It is proved by delay and excuses in handing over the disposal register to senior officers that he has tempered with Govt. record, which is serious offence in itself."

8. It was in such circumstances, the major penalty to dismiss him from service under Rule 5(ix) of Punjab Civil Services (Punishment & Appeal) Rules, 1970 was imposed upon him.

9. In appeal, the Secretary (Taxation) on 02.09.2022 (Annexure P-10) also gave an opportunity of personal hearing on 26.08.2022 to the appellant. The record was also perused by the Appellate Authority and resultantly, keeping in view the background of the case, the order imposing the punishment had been upheld in principle keeping in mind that financial misdemeanor was present. Specific charge-sheet of misconduct regarding the huge amounts and the beneficiaries of the penalties being the said firms in question and the procedure adopted by the appellant by making assessment on back dates with nil/paltry additional demands to ensure that other officers could not exercise their jurisdiction

to which they were entitled to and the appellant assessing the cases in the absence of any allotment made to him was the reason for his termination.

10. In such circumstances, we are of the considered opinion that there is no ground for interference in the present appeal as the scope of judicial review is limited as has been noticed by the Learned Single Judge. Accordingly, the present appeal along with CM application(s) are hereby dismissed.

(G.S.SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

February 8th, 2024
Sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No