

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204-A

CWP-9049-2007

Date of Decision: April 29, 2024

M/s Jaswal Cycles Pvt. Ltd.

.....Petitioner(s)

Vs.

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: None for the petitioner(s).

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

SANJEEV PRAKASH SHARMA.J. (ORAL)

None has put in appearance on behalf of the petitioner today.

2. The issue raised in the present petition is no more *res integra*.
3. Learned counsel for the Revenue Department fairly states that the issue has been finally adjudicated in the case of “*M/s Emkay Industries Vs. State of Punjab*” in *CWP No.12754 of 2002* decided on 04.05.2004, wherein it was held that notice could not have been issued under Section 10(6) and 11(d) of P.G.S.T Act, 1948.
4. Relying upon the judgment passed in *CWP-17178-2003* titled as “*Khazan Chand Nathi Ram v. State of Haryana*”, decided on 22.03.2004 and amended provisions of law under Section 11(d), as it existed on date of filing of the return or the date on which return is required to be filed shall be applicable.
5. Therefore, keeping in view the principle, which has been laid down from time to time, the amended law could be applicable to the

proceedings pertaining to the assessment year from 1997-98 onwards as the last date prescribed for filing the return.

6. In the present case, assessments are of the year 2000-2001 and the order was passed on 14.10.2004, that is beyond the period of three years, the same would be barred by the limitation prescribed (i.e. three years). The proceedings therefore, and the demand raised vide order dated 14.10.2004 are held to be beyond the time prescribed and thus beyond limitation. The proceedings thus stand vitiated by law and are accordingly set aside and we hold that the assessee could not be issued the impugned order of demand or notice as per the amended provisions of Section 11(d) that prescribes for maximum three years and there is no extension provided thereunder.

7. Accordingly, the petition stands allowed and proceedings are quashed and set aside.

8. All pending applications, if any, stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

April 29, 2024
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Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No