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SUPREME COURT OF INDIA

CIVIL APPEAL NO. 4367 OF 2004

M.P. STEEL CORPORATION
Vs.
COMMISSIONER OF CENTRAL EXCISE

R.F. NARIMAN AND A.K. SIKRI, JJ

23rd April, 2015

HF ▶ Assessee

APPEAL – LIMITATION – EXCLUSION OF TIME SPENT IN BONAFIDELY PURSING REMEDY BEFORE A WRONG FORUM – SECTION 14 OF LIMITATION ACT – CUSTOMS ACT - APPEAL AGAINST THE ORDER OF SUPERINTENDENT FILED BEFORE CEGAT – APPEAL ALLOWED – SUPREME COURT REVERSED THE DECISION HOLDING THAT APPEAL WAS MAINTAINABLE BEFORE COMMISSIONER AND CEGAT – FRESH APPEAL FILED BEFORE COMMISSIONER (APPEALS) U/S 128 OF CUSTOMS ACT – CONDONATION OF DELAY SOUGHT BY EXCLUSION OF TIME SPENT IN BONAFIDELY PURSING REMEDY BEFORE WRONG FORUM – APPEAL DISMISSED BEING NOT FILED WITHIN NINETY PLUS NINETY DAYS PRESCRIBED U/S 128 – CESTAT ALSO DISMISSED THE APPEAL HOLDING COMMISSIONER DOES NOT HAVE POWER TO CONDONE DELAY BEYOND THE PERIOD PRESCRIBED U/S 128 – ON APPEAL BEFORE SUPREME COURT – HELD – SECTION 14 OF LIMITATION ACT DOES NOT APPLY TO COMMISSIONER (APPEALS) BEING QUASI JUDICIAL AUTHORITY AND NOT COURT – NEVERTHELESS THE PRINCIPLES OF SECTION 14 WOULD APPLY SINCE IT IS FOR ADVANCEMENT OF JUSTICE – PERIOD BONAFIDELY SPENT IN PURSING REMEDY BEFORE WRONG FORUM – LIABLE TO BE EXCLUDED FOR CALCULATION OF LIMITATION PERIOD – ACCORDINGLY IT IS HELD THAT APPEAL FILED AFTER SUPREME COURT DECISION WAS IN TIME AND DESERVES TO BE HEARD ON MERITS – CASE REMANDED.

APPEAL – LIMITATION – PROCEDURAL LAW – AMENDMENT IN SECTION 128 OF CUSTOMS ACT – PRESCRIBED FOR SHORTER PERIOD – LAW AS APPLICABLE ON THE DATE OF FILING OF FIRST APPEAL BEFORE A WRONG FORUM WOULD BE APPLICABLE – AMENDMENT PROVIDES FOR SHORTER PERIOD CANNOT TAKE AWAY VESTED RIGHT OF APPEAL – APPEAL FILED AFTER SUPREME COURT ORDER HELD TO BE IN TIME AS PER UNAMENDED ACT – CASE REMANDED.

The appellant who had imported a vessel, filed a Bill of Entry on 7.2.1992. On a dispute being raised by Superintendent of Customs, the goods were got released after executing a Bank Guarantee. On 25.31992, the Collector of Customs directed the Asstt. Collector to encash the Bank Guarantee and information in this regard was sent by Superintendent of Customs on 2.4.1992 to the applicant indicating the decision of the Collector.

The appellant filed an appeal against the Superintendent's letter dated 2.4.1992 and Collector's order dated 25.3.1992 before the CEGAT. On 23.6.1998, the Tribunal allowed the appeal and set aside the order of Collector dated 25.3.1992. Revenue preferred an appeal before Supreme Court in the year 2000 which was allowed on 12.3.2003 holding that the appeal before the Tribunal was not maintainable as appeal against the order of Superintendent should have been filed before the Commissioner (Appeals) under Section 128. It was, however, open to the respondent (appellant in this case) to adopt such remedy as may be advised, if in law, they are entitled to do so.

After the Supreme Court judgment, the appellant filed an appeal before Commissioner (Appeals) on 23.5.2003 against the order passed by Superintendent, Customs dated 2.4.1992. On 4.8.2003, the application for condonation of delay was also filed seeking exclusion of the time spent in pursuing the remedy before another Forum. The appeal was dismissed by Commissioner of Customs (Appeals) on the ground of delay holding that appeal has been filed beyond the period of 60 days plus 30 days provided under Section 128 of Customs Act. CESTAT also dismissed the appeal of the appellant holding that Commissioner (Appeals) has no power to condone the delay beyond the period specified in Section 128. On appeal before the Hon'ble Supreme Court, it is:

HELD:

(i) Even though the appellant may not have taken a specific plea for exclusion of time on the basis of section 14 of Limitation Act, and the only plea being with regard to condonation of delay, the reasoning given in the application would be sufficient for the appellant to contend that section 14 of the Limitation Act or principles laid down under it would be attracted to the facts of this case.

(ii) Since the prior and subsequent proceedings were related to the same matter; were being prosecuted by the same party; were being prosecuted with due diligence and with good faith and the failure of the prior proceedings was due to defect of jurisdiction or other cause of like nature, the principles of section 14 would be squarely attracted;

(iii) However, the proceedings before the Commissioner of Customs (Appeals) are not before a court and therefore provisions of section 14 of Limitation Act, would not apply but the principles of Section 14 would still get attracted to the facts of the present case;

(iv) Since the provisions of Limitation Act would not apply to the appeals filed before a quasi-judicial Tribunal, such as Collector (Appeals), therefore, the same would not apply to Section 128 of Customs Act. However, even where section 14 does not apply, the principles on which section 14 is based being principles which advance the cause of justice, would nevertheless apply. The principles of section 14 are not excluded from the ambit of section 128 of Customs Act.

(v) The language of section 14 construed in the light of the object for which the provision has been made lends itself to the interpretation. So long as the plaintiff or application is bonafide pursuing a legal remedy which turns out to be abortive, the time beginning from the date of cause of action of an appellate proceedings is to be excluded if such appellate proceedings is from an order in an original proceeding instituted without jurisdiction or which has not resulted in an order on the merits of the case.

(vi) The period prior to institution of initiation of any abortive proceeding cannot be excluded for the simple reason that section 14 does not enable a litigant to get a benefit

beyond what is contemplated by the section – i.e. to put the litigant in the same position as if the abortive proceeding had never taken place.

(vii) Though periods of limitation, being procedural law, are to be applied retrospectively, yet if a shorter period of limitation is provided by a later amendment to a statute, such period would render the vested right of action contained in the statute nugatory as such right of action would now become time barred under the amended provision.

(viii) Since in the present case, the appeal had been filed under section 128 on 3.4.1992, when the 1st appeal had been filed, the provisions of section 128 before amendment would be applicable. The right of appeal within a period of 180 days (which includes the discretionary period of 90 days) from the date of said order was a right, which vested in the appellant, and notwithstanding the amendment made in 2001, the period of limitation would be governed by Section 128 as it stood before the amendment.

Accordingly, the appeals are allowed and matter is remitted to Commissioner (Appeals) for decision on merits.

Present: For Appellant(s)

Mr. K. V. Vishwanathan, Sr. Adv.
Mr. B. Raghunath, Adv.
Mr. Gautam Bhardwaj, Adv.
Mr. Abhishek Kaushik, Adv.
Mr. Mehul M. Gupta, Adv.
Mr. Adeeba Mujahid, Adv.
Mr. S. R. Setia, Adv.

For Respondent(s)

Mr. A. K. Sanghi, Sr. Adv.
Ms. Sunita Rani Singh, Adv.
Mr. Ritesh Kumar, Adv.
Mr. B. Krishna Prasad, Adv.

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R.F. NARIMAN, J.

1. The facts giving rise to the present appeal are as follows. The appellant is engaged in ship breaking activity at Alang Ship Breaking Yard. The appellant imported a vessel, namely, M.V. Olinda, for the purpose of breaking the same, and filed a Bill of Entry when the vessel was imported on 7.2.1992. It declared in the said Bill of Entry that the Light Displacement Tonnage of the vessel was 7009 metric tons. On 19.2.1992, the appellant was informed by the Superintendent of Customs and Central Excise Alang that the Light Displacement Tonnage of the ship is actually 8570 tons and that customs duty was to be levied on this tonnage. On 3.3.1992, the appellant cleared the vessel on payment of customs duty on the basis of 7009 metric tons and executed a bank guarantee for Rs.19,90,275/- being the difference in customs duty on 1561 metric tons. On 25.3.1992, the Collector of Customs, Rajkot, directed the Assistant Collector, Bhavnagar to encash the bank guarantee furnished by the appellant. On 2.4.1992, the Superintendent of Customs and Central Excise sent a letter to the appellant communicating the decision of the Collector, as aforesaid. The bank guarantee was duly encashed on 3.4.1992. After protesting against the said illegal action of the Department in encashing the bank guarantee, the appellant preferred an appeal against the Superintendent's letter dated 2.4.1992 and the Collector's order dated 25.3.1992 before CEGAT. On 23.6.1998, the Appellate Tribunal allowed the appeal and set aside the order of

the Collector dated 25.3.1992. In the year 2000, the Department preferred an appeal before this Court. On 12.3.2003, this Court allowed the appeal holding:

> *"This appeal is against a judgment dated 23.6.1998 passed by the Customs, Excise And Gold (Control) Appellate Tribunal, West Regional Bench at Mumbai.*
>
> *Facts briefly stated are that the respondent filed a Bill of Entry in respect of ship M.V. Olinda imported by them for purposes of breaking. The respondent showed the light displacement tonnage (LDT) as 7009 metric tons. This declaration was not accepted by the Superintendent of Customs and Central Excise. The respondent, thus, approached the Assistant Collector. The question was how LDT was to be calculated. It appears that between the Assistant Collector and the Collector there was some internal correspondence on this aspect. The Collector took a policy decision on how LDT was to be calculated. The Collector conveyed this decision to the Assistant Collector by his letter dated 25.3.1992. Pursuant thereto the Superintendent of Customs and Central Excise passed an order dated 2nd April, 1992 in respect of vessel M.V. "Olinda". Of course the order dated 2nd April, 1992 is based on the decision of the Collector. However, the order remains that of the Superintendent of Customs and Central Excise.*
>
> *The respondent filed an appeal directly before CEGAT. CEGAT has disposed of this appeal by the impugned order. CEGAT negatived a contention that the appeal was not maintainable before them on the basis that the Superintendent's order is nothing more than a communication of the order passed by the Collector (Appeals). CEGAT held that the appeal was in fact against the Collector's order.*
>
> *In our view, the reasoning of CEGAT cannot be sustained. The decision taken by the Collector was not taken in his capacity as Collector (Appeals). Also the order by which respondent is aggrieved is the order passed by the Superintendent. An appeal against that order has to be filed before the Commissioner (Appeals) under Section 128. By virtue of Section 129-A, CEGAT has no jurisdiction to entertain such an appeal.*
>
> *It is clear that the impugned order is passed without any jurisdiction. Therefore, it cannot be sustained. We, thus, set aside the order. The appeal is accordingly allowed. There will be no order as to costs.*
>
> *We clarify that we have not gone into the merits of the matter and that it will be open to the respondent to adopt such remedy as they may be advised, if in law they are entitled to do so."*

2. After this judgment, on 23.5.2003, the appellant filed an appeal before the Commissioner (Appeals) against the order passed by the Superintendent, Customs dated 2.4.1992. On 4.8.2003, an application to condone delay in filing the appeal was made in the following terms:

> *"As appeal against the order of the Supdt. of Customs was filed by us within 60 days of the receipt of the certified true copy of the judgment of the Hon'ble Supreme Court. It is our respectful submission that since the appeal was filed by us before the correct forum with due dispatch after receipt of the Supreme Court's judgment, there has been no delay in filing the appeal. It is well settled now that the time taken for pursuing a remedy before another appellate Forum is to be excluded for the purpose of computing the period for filing an appeal. (Union Carbide India Ltd. Vs. CC 1998 (77) ECR 376, Karnataka Minerals & Mfg. Co. Ltd. Vs. CCE 1998 (101) ELT 627)."*

3. By an order dated 27.10.2003, the Commissioner of Customs (Appeals) dismissed the appeal on the ground of delay stating that the appeal had been filed way beyond the period of 60 days plus 30 days provided for in Section 128 of the Customs Act. Against this order, CESTAT dismissed the appeal of the appellant stating that the Commissioner (Appeals) had no power to condone delay beyond the period specified in Section 128.

4. Shri Viswanathan, learned senior advocate appearing on behalf of the appellant argued before us that the entire period starting from 25.3.1992 up till 12.3.2003 ought to be excluded by applying Section 14 of the Limitation Act. According to him, Section 14 of the Limitation Act would apply to exclude this period from the period of 90 days allowed in filing an appeal filed to the Collector (Appeals) inasmuch as vide Section 29 (2) of the Limitation Act Section 14 of the Limitation Act would also apply to Tribunals set up under special or local Acts. According to him, the entire period with which he was prosecuting, with due diligence, the abortive appeal filed before CEGAT should be excluded, which would include the period even prior to 22.6.1992 when the abortive appeal was filed. As an alternative submission, on the assumption that Section 14 applied only to Courts and not to Tribunals, he submitted that the principle of Section 14 would then apply. According to him, Section 128 of the Customs Act before its amendment in 2001 would be attracted on the facts of this case giving him a period of 90 days plus an extended period of a further period of 90 days within which the present appeal could be filed. This being the case, on an application of Section 14, the appeal would be filed with no delay at all even if the period from 3.4.1992 to 22.6.1992 and 12.3.2003 to 23.5.2003 is to be taken into account, as that would be less than 180 days given to file the appeal under the old Section 128. He cited a number of authorities which we will deal with in the course of this judgment in support of all the aforesaid propositions.

5. Shri A.K. Sanghi, learned senior advocate appearing on behalf of the Department argued that Section 128 of the Customs Act excluded the application of Section 14 of the Limitation Act in that the scheme of the Section is that only a limited period should be given to an assessee beyond which the appeal would become time barred. In the present case, Section 128 as amended post 2001 would apply to the facts of this case and on the appellant's own showing the appeal is out of time by eleven and a half years. Section 128 only gives the appellant 60 days plus another 30 days which have long gone. He also argued that Section 14 of the Limitation Act would not apply to Tribunals but only to Courts, and the Collector (Appeals) was at best a quasi-judicial Tribunal. Further, according to him, no question of any principle of section 14 would get attracted. In fact, according to him, there is no pleading qua Section 14 at all – the only pleading is for condonation of delay and not for exclusion of time. Section 14 requires that five necessary ingredients must be satisfied on facts before it can be attracted. The appellant has neither pleaded nor proved any of these ingredients. He also cited a number of authorities which we will refer to in the course of this judgment.

Ingredients of Section 14.

Section 14 of the Limitation Act reads as follows:

"14. Exclusion of time of proceeding bona fide in court without jurisdiction.*—(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.*

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in Rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under Rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.

Explanation.—For the purposes of this section,—

(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;

(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction."

6. Shri A.K. Sanghi, learned senior counsel appearing on behalf of the Department has stated that at no point of time has the appellant taken up a plea based on Section 14. Neither has the appellant met with any of the five conditions set out in paragraph 21 of **Consolidated Engg. Enterprises v. Principal secy., Irrigation Deptt., (2008) 7 SCC 169**, which reads as follows:-

"21. Section 14 of the Limitation Act deals with exclusion of time of proceeding bona fide in a court without jurisdiction. On analysis of the said section, it becomes evident that the following conditions must be satisfied before Section 14 can be pressed into service:

(1) Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;

(2) The prior proceeding had been prosecuted with due diligence and in good faith;

(3) The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature;

(4) The earlier proceeding and the latter proceeding must relate to the same matter in issue and;

(5) Both the proceedings are in a court."

7. Technically speaking, Shri A.K. Sanghi, may be correct. However, in an application for condonation of delay the appellant pointed out that they were pursuing a remedy before another appellate forum which ought to be excluded. We deem this averment sufficient for the appellant to contend that Section 14 of the Limitation Act or principles laid down under it would be attracted to the facts of this case.

We might also point out that conditions 1 to 4 mentioned in the Consolidated Engineering case have, in fact, been met by the appellant. It is clear that both the prior and

subsequent proceedings are civil proceedings prosecuted by the same party. The prior proceeding had been prosecuted with due diligence and in good faith, as has been explained in Consolidated Engineering itself. These phrases only mean that the party who invokes Section 14 should not be guilty of negligence, lapse or inaction. Further, there should be no pretended mistake intentionally made with a view to delaying the proceedings or harassing the opposite party. On the facts of this case, as the earlier Supreme Court order dated 12.3.2003 itself points out, there was some confusion as to whether what was appealed against was the Superintendent's order or the Collector's order. The appellant bona fide believed that it was the Collector's order which was appealed against and hence an appeal to CEGAT would be maintainable. This contention, however, ran into rough weather in this Court. Further, the time taken between 3.4.1992 and 22.6.1992 to file an appeal cannot be said to be inordinately long. Thus, neither was there any negligence, lapse or inaction on facts nor did the appellant delay proceedings to harass the Department by pretending that there was a mistake. Condition (3) was also directly met – this Court in the order dated 12.3.2003 set aside CEGAT's order on the ground that it was without jurisdiction. It is indisputable that the earlier proceeding and the later proceeding relate to the same matter in issue and thus condition 4 is also met. Condition 5, however, has not been met as both the proceedings are before a quasi- judicial Tribunal and not in a Court. This, however, is not fatal to the present proceeding as what is being held by us in this judgment is that despite the fact that Section 14 of the Limitation Act may not apply, yet the principles of Section 14 will get attracted to the facts of the present case. It is in this way that we now proceed to consider the law on the subject.

Whether the Limitation Act applies only to Courts and not to Tribunals

8. A perusal of the Limitation Act, 1963 would show that the bar of limitation contained in the Schedule to the Act applies to suits, appeals, and applications. "Suit" is defined in Section 2(l) as not including an appeal or an application. The word "Court" is not defined under the Act. However, it appears in a number of its provisions (See: Sections 4,5,13,17(2),21). A perusal of the Schedule would show that it is divided into three divisions. The first division concerns itself with suits. Articles 1 to 113 all deal with "suits".

9. Sections 2(a),(e) and (i) are material in that they define what is meant by an applicant, a plaintiff and a defendant.

*"**2. Definitions.**—In this Act, unless the context otherwise requires,—*

(a) "applicant" includes—

(i) a petitioner;

(ii) any person from or through whom an applicant derives his right to apply;

(iii) any person whose estate is represented by the applicant as executor, administrator or other representative;

(e) "defendant" includes—

(i) any person from or through whom a defendant derives his liability to be sued;

(ii) any person whose estate is represented by the defendant as executor, administrator or other representative;

(i) "plaintiff" includes—

(i) any person from or through whom a plaintiff derives his right to sue;

(ii) any person whose estate is represented by the plaintiff as executor, administrator or other representative;"

10. Section 3(2) which is material states as follows:

"3(2) For the purposes of this Act-

a) A suit is instituted-

(i) In an ordinary case, when the plaint is presented to the proper officer;

(ii) In the case of a pauper, when his application for leave to sue as a pauper is made; and

(iii) In the case of a claim against a company which is being wound up by the court, when the claimant first sends in his claim to the official liquidator;

b) Any claim by way of a set off or a counter claim, shall be treated as a separate suit and shall be deemed to have been instituted –

(i) in the case of a set off, on the same date as the suit in which the set off is pleaded;

(ii) in the case of a counter claim, on the date on which the counter claim is made in court;

c) *an application by notice of motion in a High Court is made when the application is presented to the proper officer of that court."*

11. A perusal of Section 3(2) shows that "suits" are understood as actions begun in courts of law established under the Constitution of India.

12. In the Schedule, the second division concerns itself with appeals. These appeals under Articles 114 to 117, are either under the Civil Procedure Code, the Criminal Procedure Code, or intra-court appeals so far as the High Courts are concerned. These appeals again are only to "Courts" established under the Constitution.

13. Equally, in the third division, all applications that are referred to are under Articles 118 to 137 only to "Courts", either under the Civil Procedure Code or under other enactments.

14. Sections 13, 21 and Articles 124, 130 and 131 of the Limitation Act are again important in understanding what is meant by the expression "Court". They are set out below:

*"13. **Exclusion of time in cases where leave to sue or appeal as a pauper is applied for.**—In computing the period of limitation prescribed for any suit or appeal in any case where an application for leave to sue or appeal as a pauper has been made and rejected, the time during which the applicant has been prosecuting in good faith his application for such leave shall be excluded, and the court may, on payment of the court fees prescribed for such suit or appeal, treat the suit or appeal as having the same force and effect as if the court fees had been paid in the first instance.*

*21. **Effect of substituting or adding new plaintiff or defendant.—**(1) Where after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party:*

Provided that where the court is satisfied that the omission to include a new plaintiff or defendant was due to a mistake made in good faith it may direct that the

suit as regards such plaintiff or defendant shall be deemed to have been instituted on any earlier date.

(2) Nothing in sub-section (1) shall apply to a case where a party is added or substituted owing to assignment or devolution of any interest during the pendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

Schedule

124.	*For a review of judgment by a court other than the Supreme Court*	*Thirty days*	*The date of the decree or order*
130.	*For leave to appear as a pauper -*		
	(a) to the High Court	*Sixty days*	*The date of decree appeared from*
	(b) to the other Court	*Thirty days*	*The date of decree appealed from*
131.	*To any court for the exercise of its power of revision under the Code of Civil Procedure, 1908 (5 of 1908), or the Code of Criminal Procedure, 1898 (5 of 1898).*	*Ninety days*	*The date of the decree or order or sentence sought to be revised.*

It will be seen that suits and appeals that are covered by the Limitation Act are so covered provided court fees prescribed for such suits or appeals are paid. Under Section 13, set out hereinabove, this becomes clear. That is why time is excluded in cases where leave to file a suit or an appeal as a pauper is granted in the circumstances mentioned in the Section. 'Courts' that are mentioned in this Section are therefore courts as understood in the strict sense of being part of the Judicial Branch of the State.

15. Section 21 also makes it clear that the suit that the Limitation Act speaks of is instituted only by a plaintiff against a defendant. Both plaintiff and defendant have been defined as including persons through whom they derive their right to sue and include persons whose estate is represented by persons such as executors, administrators or other representatives. This again refers only to suits filed in courts as is understood by the Code of Civil Procedure. In this regard, Section 26 of the CPC states:

"Section 26- Institution of suits

(1) Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

(2) In every plaint, facts shall be proved by affidavit."

16. When it comes to applications, again Articles 124, 130 and 131 throw a great deal of light. Only review of judgments by a "court" is contemplated in the Third Division in the Schedule. Further, leave to appeal as a pauper again can be made either to the High Court

or only to any other court vide Article 130. And by Article 131, a revision petition filed only before Courts under the Code of Civil Procedure Code or the Code of Criminal Procedure are referred to. On a plain reading of the provisions of the Limitation Act, it becomes clear that suits, appeals and applications are only to be considered (from the limitation point of view) if they are filed in courts and not in quasi- judicial bodies.

17. Now to the case law. A number of decisions have established that the Limitation Act applies only to courts and not to Tribunals. The distinction between courts and quasi-judicial decisions is succinctly brought out in **Bharat Bank Ltd. v. Employees of Bharat Bank Ltd., 1950 SCR 459.** This root authority has been followed in a catena of judgments. This judgment refers to a decision of the King's Bench **in Cooper v. Wilson**. The relevant quotation from the said judgment is as follows:-

> *"A true judicial decision presupposes an existing dispute between two or more parties, and then involves four requisites: (1) The presentation (not necessarily orally) of their case by the parties to the dispute; (2) if the dispute between them is a question of fact, the ascertainment of the fact by means of evidence adduced by the parties to the dispute and often with the assistance of argument by or on behalf of the parties on the evidence; (3) if the dispute between them is a question of law, the submission of legal argument by the parties, and (4) a decision which disposes of the whole matter by a finding upon the facts in dispute and application of the law of the land to the facts so found, including where required a ruling upon any disputed question of law. A quasi-judicial decision equally presupposes an existing dispute between two or more parties and involves (1) and (2), but does not necessarily involve (3) and never involves (4). The place of (4) is in fact taken by administrative action, the character of which is determined by the Minister's free choice."*

18. Under our constitutional scheme of things, the judiciary is dealt with in Chapter IV of Part V and Chapter V of Part VI. Chapter IV of Part V deals with the Supreme Court and Chapter V of Part VI deals with the High Courts and courts subordinate thereto. When the Constitution uses the expression "court", it refers to this Court system. As opposed to this court system is a system of quasi-judicial bodies called Tribunals. Thus, Articles 136 and 227 refer to "courts" as distinct from "tribunals". The question in this case is whether the Limitation Act extends beyond the court system mentioned above and embraces within its scope quasi-judicial bodies as well.

19. A series of decisions of this Court have clearly held that the Limitation Act applies only to courts and does not apply to quasi- judicial bodies. Thus, in **Town Municipal Council, Athani v. Presiding Officer, Labour Court**, (1969) 1 SCC 873, a question arose as to what applications are covered under Article 137 of the Schedule to the Limitation Act. It was argued that an application made under the Industrial Disputes Act to a Labour Court was covered by the said Article. This Court negatived the said plea in the following terms:-

> *"12. This point, in our opinion, may be looked at from another angle also. When this Court earlier held that all the articles in the third division to the schedule, including Article 181 of the Limitation Act of 1908, governed applications under the Code of Civil Procedure only, it clearly implied that the applications must be presented to a court governed by the Code of Civil Procedure. Even the applications under the Arbitration Act that were included within the third division by amendment of Articles 158 and 178 were to be presented to courts whose proceedings were governed by the Code of Civil Procedure. As best, the further amendment now made enlarges the scope of the third division of the schedule so as also to include some applications presented to courts governed by the Code of Criminal Procedure. One factor at least remains constant and that is that the applications must be to courts to be governed by*

> *the articles in this division. The scope of the various articles in this division cannot be held to have been so enlarged as to include within them applications to bodies other than courts, such as a quasi judicial tribunal, or even an executive authority. An Industrial Tribunal or a Labour Court dealing with applications or references under the Act are not courts and they are in no way governed either by the Code of Civil Procedure or the Code of Criminal Procedure. We cannot, therefore, accept the submission made that this article will apply even to applications made to an Industrial Tribunal or a Labour Court. The alterations made in the article and in the new Act cannot, in our opinion, justify the interpretation that even applications presented to bodies, other than courts, are now to be governed for purposes of limitation by Article 137."*

Similarly, in **Nityananda, M. Joshi & Ors. v. Life Insurance Corporation & Ors.,** (1969) 2 SCC 199, this Court followed the judgment in **Athani's** case and turned down a plea that an application made to a Labour Court would be covered under Article 137 of the Limitation Act. This Court emphatically stated that Article 137 only contemplates applications to courts in the following terms:

> *"3. In our view Article 137 only contemplates applications to Courts. In the Third Division of the Schedule to the Limitation Act, 1963 all the other applications mentioned in the various articles are applications filed in a court. Further Section 4 of the Limitation Act, 1963, provides for the contingency when the prescribed period for any application expires on a holiday and the only contingency contemplated is "when the court is closed." Again under Section 5 it is only a court which is enabled to admit an application after the prescribed period has expired if the court is satisfied that the applicant had sufficient cause for not preferring the application. It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Indian Limitation Act, 1963.'"*

20. In **Kerala State Electricity Board v. T.P. Kunhaliumma,** (1976) 4 SCC 634, a 3-Judge Bench of this Court followed the aforesaid two judgments and stated:-

> *"22. The conclusion we reach is that Article 137 of the 1963 Limitation Act will apply to any petition or application filed under any Act to a civil court. With respect we differ from the view taken by the two-judge bench of this Court in Athani Municipal Council case [(1969) 1 SCC 873 : (1970) 1 SCR 51] and hold that Article 137 of the 1963 Limitation Act is not confined to applications contemplated by or under the Code of Civil Procedure. The petition in the present case was to the District Judge as a court. The petition was one contemplated by the Telegraph Act for judicial decision. The petition is an application falling within the scope of Article 137 of the 1963 Limitation Act."*

This judgment is an authoritative pronouncement by a 3-Judge Bench that the Limitation Act applies only to courts and not to quasi- judicial Tribunals. Athani's case was dissented from on a different proposition – that Article 137 is not confined to applications under the Code of Civil Procedure alone. So long as an application is made under any statute to a Civil Court, such application will be covered by Article 137 of the Limitation Act.

21. The stage is now set for a decision on which wide ranging arguments were made by counsel on both sides. In **Commissioner of Sales Tax, U.P., Lucknow v. Parson Tools and Plants, Kanpur,** (1975) 4 SCC 22, a 3-Judge Bench was confronted with whether Section 14 of the Limitation Act applied to the Sales Tax authorities under the U.P. Sales Tax Act. In no uncertain terms, this Court held:-

> *"8. Mr Karkhanis is right that this matter is no longer res Integra. In Shrimati Ujjam Bai v. State of U.P. [AIR 1962 SC 1621 : (1963) 1 SCR 778] Hidayatullah, J. (as he then was) speaking for the Court, observed:*
>
> *"The Taxing authorities are instrumentalities of the State. They are not a part of the legislature, nor are they a part of the Judiciary. Their functions are the assessment and collection of taxes and in the process of assessing taxes, they follow a pattern of action which is considered judicial. They are not thereby converted into courts of civil judicature. They still remain the instrumentalities of the State and are within the definition of 'State' in Article 12."*
>
> *9. The above observations were quoted with approval by this Court in Jagannath Prasad case [AIR 1963 SC 416 : (1963) 2 SCR 850 : 14 STC 536] and it was held that a Sales Tax Officer under U.P. Sales Tax Act, 1948 was not a court within the meaning of Section 195 of the Code of Criminal Procedure although he is required to perform certain quasi-judicial functions. The decision in Jagannath Prasad case it seems, was not brought to the notice of the High Court. In view of these pronouncements of this Court, there is no room for argument that the Appellate Authority and the Judge (Revisions) Sales tax exercising jurisdiction under the Sales Tax Act, are "courts". They are merely Administrative Tribunals and "not courts". Section 14, Limitation Act, therefore, does not, in terms apply to proceedings before such tribunals."*

It then went on to discuss whether the general principle underlying Section 14 would be applicable and held:-

> *"12. Three features of the scheme of the above provision are noteworthy. The first is that no limitation has been prescribed for the suo motu exercise of its jurisdiction by the revising authority. The second is that the period of one year prescribed as limitation for filing an application for revision by the aggrieved party is unusually long. The third is that the revising authority has no discretion to extend this period beyond a further period of six months, even on sufficient cause shown. As rightly pointed out in the minority judgment of the High Court, pendency of proceedings of the nature contemplated by Section 14(2) of the Limitation Act, may amount to a sufficient cause for condoning the delay and extending the limitation for filing a revision application, but Section 10(3- B) of the Sales Tax Act gives no jurisdiction to the revising authority to extend the limitation, even in such a case, for a further period of more than six months.*
>
> *13. The three stark features of the scheme and language of the above provision, unmistakably show that the legislature has deliberately excluded the application of the principles underlying Sections 5 and 14 of the Limitation Act, except to the extent and in the truncated form embodied in sub-section (3- B) of Section 10 of the Sales Tax Act. Delay in disposal of revenue matters adversely affects the steady inflow of revenues and the financial stability of the State. Section 10 is therefore designed to ensure speedy and final determination of fiscal matters within a reasonably certain time-schedule.*
>
> *14. It cannot be said that by excluding the unrestricted application of the principles of Sections 5 and 14 of the Limitation Act, the legislature has made the provisions of Section 10 unduly oppressive. In most cases, the discretion to extend limitation, on sufficient cause being shown for a further period of six months only, given by sub-section (3-B) would be enough to afford relief. Cases are no doubt conceivable where an aggrieved party, despite sufficient cause, is unable to make an application for revision within this maximum period of 18 months. Such harsh cases would be rare.*

Even in such exceptional cases of extreme hardship, the revising authority may, on its own motion, entertain revision and grant relief."

22. It is clear that this judgment clearly laid down two things – one that authorities under the Sales Tax Act are not "courts" and thus, the Limitation Act will not apply to them. It also laid down that the language of Section 10 (3-B) of the U.P. Sales Tax Act made it clear that an unusually long period of limitation had been given for filing a revision application and therefore said that the said Section as construed by the Court would not be unduly oppressive. Most cases would, according to the Court, be filed within a maximum period of 18 months but even in cases, rare as they are, filed beyond such period, the revising authority may on its own motion entertain the revision and grant relief. Given the three features of the U.P. Sales Tax Act scheme, the Court held that the legislature deliberately excluded the application of the principle underlying Section 14 except to the limited extent that it may amount to sufficient cause for condoning delay within the period of 18 months.

23. Close upon the heels of this judgment comes another 3-Judge Bench decision under the same provision of the U.P. Sales Tax Act. In this judgment, another 3-Judge Bench in **C.S.T. v. Madan Lal Das and Sons,** 1976 (4) SCC 464, without adverting to either Parson Tools or the three other judgments mentioned hereinabove went on to apply Section 12 (2) of the Limitation Act to proceedings under the U.P. Sales Tax Act. None of the aforesaid four decisions were pointed out to the court and it was not argued that the Limitation Act applies only to courts and not to Sales Tax authorities who are quasi-judicial Tribunals. This judgment, therefore, is not an authority for the proposition that the Limitation Act would apply to Tribunals as opposed to courts. Clearly the conclusion reached would be contrary to four earlier decisions three of which are 3-Judge Bench decisions.

24. In fact, even after this judgment, in **Officer on Special Duty (Land Acquisition) v. Shah Manilal Chandulal,** (1996) 9 SCC 414, this Court held that a Land Acquisition Officer under the Land Acquisition Act not being a court, the provisions of the Limitation Act would not apply. The court concluded, after adverting to some of the previous judgments of this Court as follows:-

"18. Though hard it may be, in view of the specific limitation provided under proviso to Section 18(2) of the Act, we are of the considered view that sub-section (2) of Section 29 cannot be applied to the proviso to sub-section (2) of Section 18. The Collector/LAO, therefore, is not a court when he acts as a statutory authority under Section 18(1). Therefore, Section 5 of the Limitation Act cannot be applied for extension of the period of limitation prescribed under proviso to sub-section (2) of Section 18. The High Court, therefore, was not right in its finding that the Collector is a court under Section 5 of the Limitation Act.

19. Accordingly, we hold that the applications are barred by limitation and the Collector has no power to extend time for making an application under Section 18(1) for reference to the court."

25. Two other judgments of this Court need to be dealt with at this stage. In **Mukri Gopalan v. Cheppilat Puthanpurayil Aboobacker,** (1995) 5 SCC 5, a 2-Judge Bench of this Court held that the Limitation Act would apply to the appellate authority constituted under Section 13 of the Kerala Buildings (Lease and Rent Control) Act , 1965. This was done by applying the provision of Section 29(2) of the Limitation Act. Despite referring to various earlier judgments of this Court which held that the Limitation Act applies only to courts and not to Tribunals, this Court in this case held to the contrary. In distinguishing the Parson Tools' case, which is a 3-Judge Bench binding on the Court that decided Mukri Gopalan's case, the Court held:-

> *"If the Limitation Act does not apply then neither Section 29(2) nor Section 14(2) of the Limitation Act would apply to proceedings before him. But so far as this Court is concerned it did not go into the question whether Section 29(2) would not get attracted because the U.P. Sales Tax Act Judge (Revisions) was not a court but it took the view that because of the express provision in Section 10(3)(B) applicability of Section 14(2) of the Sales Tax Act was ruled out. Implicit in this reasoning is the assumption that but for such an express conflict or contrary intention emanating from Section 10(3)(B) of the U.P. Sales Tax Act which was a special law, Section 29(2) would have brought in Section 14(2) of the Limitation Act even for governing period of limitation for such revision applications. In any case, the scope of Section 29(2) was not considered by the aforesaid decision of the three learned Judges and consequently it cannot be held to be an authority for the proposition that in revisional proceedings before the Sales Tax authorities functioning under the U.P. Sales Tax Act Section 29(2) cannot apply as Mr. Nariman would like to have it."*

It then went on to follow the judgment reported in **The Commissioner of Sales Tax, U.P. v. M/s. Madan Lal Das & Sons, Bareilly**, (1976) 4 SCC 464 which, as has been pointed out earlier, is not an authority for the proposition that the Limitation Act would apply to Tribunals. In fact, **Mukri Gopalan's** case was distinguished in **Om Prakash v. Ashwani Kumar Bassi**, (2010) 9 SCC 183 at paragraph 22 as follows:

> *"22. The decision in Mukri Gopalan case [(1995) 5 SCC 5] relied upon by Mr Ujjal Singh is distinguishable from the facts of this case. In the facts of the said case, it was the District Judges who were discharging the functions of the appellate authority and being a court, it was held that the District Judge, functioning as the appellate authority, was a court and not persona designata and was, therefore, entitled to resort to Section 5 of the Limitation Act. That is not so in the instant case where the Rent Controller appointed by the State Government is a member of the Punjab Civil Services and, therefore, a persona designata who would not be entitled to apply the provisions of Section 5 of the Limitation Act, 1963, as in the other case."*

The fact that the District Judge himself also happened to be the appellate authority under the Rent Act would have been sufficient on the facts of the case for the Limitation Act to apply without going into the proposition that the Limitation Act would apply to tribunals.

26. Quite apart from Mukri Gopalan's case being out of step with at least five earlier binding judgments of this Court, it does not square also with the subsequent judgment in **Consolidated Engg. Enterprises v. Principal secy., Irrigation Deptt.,** (2008) 7 SCC 169. A 3-Judge Bench of this Court was asked to decide whether Section 14 of the Limitation Act would apply to Section 34(3) of the Arbitration and Conciliation Act, 1996. After discussing the various provisions of the Arbitration Act and the Limitation Act, this Court held:

> *"23. At this stage it would be relevant to ascertain whether there is any express provision in the Act of 1996, which excludes the applicability of Section 14 of the Limitation Act. On review of the provisions of the Act of 1996 this Court finds that there is no provision in the said Act which excludes the applicability of the provisions of Section 14 of the Limitation Act to an application submitted under Section 34 of the said Act. On the contrary, this Court finds that Section 43 makes the provisions of the Limitation Act, 1963 applicable to arbitration proceedings. The proceedings under Section 34 are for the purpose of challenging the award whereas the proceeding referred to under Section 43 are the original proceedings which can be equated with a suit in a court. Hence, Section 43 incorporating the Limitation Act will apply to the proceedings in the arbitration as it applies to the proceedings of a suit in the court. Sub-section (4) of Section 43, inter alia, provides that where the court orders that an*

arbitral award be set aside, the period between the commencement of the arbitration and the date of the order of the court shall be excluded in computing the time prescribed by the Limitation Act, 1963, for the commencement of the proceedings with respect to the dispute so submitted. If the period between the commencement of the arbitration proceedings till the award is set aside by the court, has to be excluded in computing the period of limitation provided for any proceedings with respect to the dispute, there is no good reason as to why it should not be held that the provisions of Section 14 of the Limitation Act would be applicable to an application submitted under Section 34 of the Act of 1996, more particularly where no provision is to be found in the Act of 1996, which excludes the applicability of Section 14 of the Limitation Act, to an application made under Section 34 of the Act. It is to be noticed that the powers under Section 34 of the Act can be exercised by the court only if the aggrieved party makes an application. The jurisdiction under Section 34 of the Act, cannot be exercised suo motu. The total period of four months within which an application, for setting aside an arbitral award, has to be made is not unusually long. Section 34 of the Act of 1996 would be unduly oppressive, if it is held that the provisions of Section 14 of the Limitation Act are not applicable to it, because cases are no doubt conceivable where an aggrieved party, despite exercise of due diligence and good faith, is unable to make an application within a period of four months. From the scheme and language of Section 34 of the Act of 1996, the intention of the legislature to exclude the applicability of Section 14 of the Limitation Act is not manifest. It is well to remember that Section 14 of the Limitation Act does not provide for a fresh period of limitation but only provides for the exclusion of a certain period. Having regard to the legislative intent, it will have to be held that the provisions of Section 14 of the Limitation Act, 1963 would be applicable to an application submitted under Section 34 of the Act of 1996 for setting aside an arbitral award."

While discussing Parson Tools, this Court held:

"25……In appeal, this Court held that (1) if the legislature in a special statute prescribes a certain period of limitation, then the Tribunal concerned has no jurisdiction to treat within limitation, an application, by excluding the time spent in prosecuting in good faith, on the analogy of Section 14(2) of the Limitation Act, and (2) the appellate authority and the revisional authority were not "courts" but were merely administrative tribunals and, therefore, Section 14 of the Limitation Act did not, in terms, apply to the proceedings before such tribunals.

26. From the judgment of the Supreme Court in CST [(1975) 4 SCC 22 : 1975 SCC (Tax) 185 : (1975) 3 SCR 743] it is evident that essentially what weighed with the Court in holding that Section 14 of the Limitation Act was not applicable, was that the appellate authority and the revisional authority were not "courts". The stark features of the revisional powers pointed out by the Court, showed that the legislature had deliberately excluded the application of the principles underlying Sections 5 and 14 of the Limitation Act. Here in this case, the Court is not called upon to examine scope of revisional powers. The Court in this case is dealing with Section 34 of the Act which confers powers on the court of the first instance to set aside an award rendered by an arbitrator on specified grounds. It is not the case of the contractor that the forums before which the Government of India undertaking had initiated proceedings for setting aside the arbitral award are not "courts". In view of these glaring distinguishing features, this Court is of the opinion that the decision rendered in CST [(1975) 4 SCC 22 : 1975 SCC (Tax) 185 : (1975) 3 SCR 743] did not decide the issue which falls for consideration of this Court and, therefore, the said decision

cannot be construed to mean that the provisions of Section 14 of the Limitation Act are not applicable to an application submitted under Section 34 of the Act of 1996."

In a separate concurring judgment Justice Raveendran specifically held:

"44. It may be noticed at this juncture that the Schedule to the Limitation Act prescribes the period of limitation only to proceedings in courts and not to any proceeding before a tribunal or quasi-judicial authority. Consequently Sections 3 and 29(2) of the Limitation Act will not apply to proceedings before the tribunal. This means that the Limitation Act will not apply to appeals or applications before the tribunals, unless expressly provided.

While dealing with Parson Tools, the learned Judge held:

"56. In Parson Tools [(1975) 4 SCC 22] this Court did not hold that Section 14(2) was excluded by reason of the wording of Section 10(3-B) of the Sales Tax Act. This Court was considering an appeal against the Full Bench decision of the Allahabad High Court. Two Judges of the High Court had held that the time spent in prosecuting the application for setting aside the order of dismissal of appeals in default, could be excluded when computing the period of limitation for filing a revision under Section 10 of the said Act, by application of the principle underlying Section 14(2) of the Limitation Act. The minority view of the third Judge was that the revisional authority under Section 10 of the U.P. Sales Tax Act did not act as a court but only as a Revenue Tribunal and therefore the Limitation Act did not apply to the proceedings before such Tribunal, and consequently, neither Section 29(2) nor Section 14(2) of the Limitation Act applied. The decision of the Full Bench was challenged by the Commissioner of Sales Tax before this Court, contending that the Limitation Act did not apply to tribunals, and Section 14(2) of the Limitation Act was excluded in principle or by analogy. This Court upheld the view that the Limitation Act did not apply to tribunals, and that as the revisional authority under Section 10 of the U.P. Sales Tax Act was a tribunal and not a court, the Limitation Act was inapplicable. This Court further held that the period of pendency of proceedings before the wrong forum could not be excluded while computing the period of limitation by applying Section 14(2) of the Limitation Act. This Court, however, held that by applying the principle underlying Section 14(2), the period of pendency before the wrong forum may be considered as a "sufficient cause" for condoning the delay, but then having regard to Section 10(3-B), the extension on that ground could not extend beyond six months. The observation that pendency of proceedings of the nature contemplated by Section 14(2) of the Limitation Act, may amount to a sufficient cause for condoning the delay and extending the limitation and such extension cannot be for a period in excess of the ceiling period prescribed, is in the light of its finding that Section 14(2) of the Limitation Act was inapplicable to revisions under Section 10(3-B) of the U.P. Sales Tax Act. These observations cannot be interpreted as laying down a proposition that even where Section 14(2) of the Limitation Act in terms applied and the period spent before wrong forum could therefore be excluded while computing the period of limitation, the pendency before the wrong forum should be considered only as a sufficient cause for extension of period of limitation and therefore, subjected to the ceiling relating to the extension of the period of limitation. As we are concerned with a proceeding before a court to which Section 14(2) of the Limitation Act applies, the decision in Parson Tools [(1975) 4 SCC 22 : 1975 SCC (Tax) 185 : (1975) 3 SCR 743] which related to a proceeding before a Tribunal to which Section 14(2) of the Limitation Act did not apply, has no application."

27. Obviously, the ratio of Mukri Gopalan does not square with the observations of the 3-Judge Bench in Consolidated Engineering Enterprises. In the latter case, this Court has unequivocally held that Parson Tools is an authority for the proposition that the Limitation Act will not apply to quasi-judicial bodies or Tribunals. To the extent that Mukri Gopalan is in conflict with the judgment in the Consolidated Engineering Enterprises case, it is no longer good law.

28. The sheet anchor in Mukri Gopalan was Section 29(2) of the Limitation Act. Section 29(2) states:-

> *"29.* ***Savings.—***
>
> *(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law."*

A bare reading of this Section would show that the special or local law described therein should prescribe for any suit, appeal or application a period of limitation different from the period prescribed by the schedule. This would necessarily mean that such special or local law would have to lay down that the suit, appeal or application to be instituted under it should be a suit, appeal or application of the nature described in the schedule. We have already held that such suits, appeals or applications as are referred to in the schedule are only to courts and not to quasi-judicial bodies or Tribunals. It is clear, therefore, that only when a suit, appeal or application of the description in the schedule is to be filed in a court under a special or local law that the provision gets attracted. This is made even clearer by a reading of Section 29(3). Section 29(3) states:-

> *"29.* ***Savings.—***
>
> *(3) Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law."*

29. When it comes to the law of marriage and divorce, the Section speaks not only of suits but other proceedings as well. Such proceedings may be proceedings which are neither appeals nor applications thus making it clear that the laws relating to marriage and divorce, unlike the law of limitation, may contain proceedings other than suits, appeals or applications filed in courts. This again is an important pointer to the fact that the entirety of the Limitation Act including Section 29(2) would apply only to the three kinds of proceedings mentioned all of which are to be filed in courts.

30. It now remains to consider the decision of a 2-Judge Bench reported in **P. Sarathy v. State Bank of India**, (2000) 5 SCC 355. This judgment has held that an abortive proceeding before the appellate authority under Section 41 of the Tamil Nadu Shops and Establishment Act would attract the provisions of Section 14 of the Limitation Act inasmuch as the appellant in this case had been prosecuting with due diligence another civil proceeding before the appellate authority under the Tamil Nadu Shops and Establishment Act, which appeal was dismissed on the ground that the said Act was not applicable to nationalized banks and that, therefore, such appeal would not be maintainable. This Court made a distinction between "Civil Court" and "court' and expanded the scope of Section 14 stating that any authority or Tribunal having the trappings of a Court would be a "court" within the meaning of Section 14. It must be remembered that the word "Court" refers only to a

proceeding which proves to be abortive. In this context, for Section 14 to apply, two conditions have to be met. First, the primary proceeding must be a suit, appeal or application filed in a Civil Court. Second, it is only when it comes to excluding time in an abortive proceeding that the word "Court" has been expanded to include proceedings before tribunals.

31. This judgment is in line with a large number of authorities which have held that Section 14 should be liberally construed to advance the cause of justice – see: **Shakti Tubes Ltd. v. State of Bihar,** (2009) 1 SCC 786 and the judgments cited therein. Obviously, the context of Section 14 would require that the term "court" be liberally construed to include within it quasi-judicial Tribunals as well. This is for the very good reason that the principle of Section 14 is that whenever a person bonafide prosecutes with due diligence another proceeding which proves to be abortive because it is without jurisdiction, or otherwise no decision could be rendered on merits, the time taken in such proceeding ought to be excluded as otherwise the person who has approached the Court in such proceeding would be penalized for no fault of his own. This judgment does not further the case of Shri Viswanathan in any way. The question that has to be answered in this case is whether suits, appeals or applications referred to by the Limitation Act are to be filed in courts. This has nothing to do with "civil proceedings" referred to in Section 14 which may be filed before other courts or authorities which ultimately do not answer the case before them on merits but throw the case out on some technical ground. Obviously the word "court" in Section 14 takes its colour from the preceding words "civil proceedings". Civil proceedings are of many kinds and need not be confined to suits, appeals or applications which are made only in courts *stricto sensu*. This is made even more clear by the explicit language of Section 14 by which a civil proceeding can even be a revision which may be to a quasi-judicial tribunal under a particular statute.

Whether the Principle of Section 14 would apply to an appeal filed under Section 128 Customs Act.

> *"128.* ***Appeals to Commissioner (Appeals)****.—(1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a Commissioner of Customs may appeal to the Commissioner (Appeals) within [sixty days] from the date of the communication to him of such decision or order:*
>
> *[Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.]*
>
> *[(1-A) The Commissioner (Appeals) may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing :*
>
> *Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.]*
>
> *(2) Every appeal under this section shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf."*

Prior to its amendment in 2001, the said Section read as under:-

> *"128.* ***Appeals to Collector (Appeals).****—(1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a Collector of Customs may appeal to the Collector (Appeals) within three months from the date of the communication to him of such decision or order:*

Provided that the Collector (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(2) Every appeal under this section shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf."

We have already held that the Limitation Act including Section 14 would not apply to appeals filed before a quasi-judicial Tribunal such as the Collector (Appeals) mentioned in Section 128 of the Customs Act. However, this does not conclude the issue. There is authority for the proposition that even where Section 14 may not apply, the principles on which Section 14 is based, being principles which advance the cause of justice, would nevertheless apply. We must never forget, as stated in **Bhudan Singh & Anr. v. Nabi Bux & Anr.**, (1970) 2 SCR 10, that justice and reason is at the heart of all legislation by Parliament. This was put in very felicitous terms by Hegde,J. as follows:

"Before considering the meaning of the word "held" in Section 9, it is necessary to mention that it is proper to assume that the lawmakers who are the representatives of the people enact laws which the society considers as honest, fair and equitable. The object of every legislation is to advance public welfare. In other words as observed by Crawford in his book on Statutory Constructions the entire legislative process is influenced by considerations of justice and reason. Justice and reason constitute the great general legislative intent in every piece of legislation. Consequently where the suggested construction operates harshly, ridiculously or in any other manner contrary to prevailing conceptions of justice and reason, in most instances, it would seem that the apparent or suggested meaning of the statute, was not the one intended by the law- makers. In the absence of some other indication that the harsh or ridiculous effect was actually intended by the legislature, there is little reason to believe that it represents the legislative intent."

32. This is why the principles of Section 14 were applied in **J. Kumaradasan Nair v. Iric Sohan,** (2009) 12 SCC 175 to a revision application filed before the High Court of Kerala. The Court held:

"16. The provisions contained in Sections 5 and 14 of the Limitation Act are meant for grant of relief where a person has committed some mistake. The provisions of Sections 5 and 14 of the Limitation Act alike should, thus, be applied in a broad based manner. When sub-section (2) of Section 14 of the Limitation Act per se is not applicable, the same would not mean that the principles akin thereto would not be applied. Otherwise, the provisions of Section 5 of the Limitation Act would apply. There cannot be any doubt whatsoever that the same would be applicable to a case of this nature.

17. There cannot furthermore be any doubt whatsoever that having regard to the definition of "suit" as contained in Section 2(l) of the Limitation Act, a revision application will not answer the said description. But, although the provisions of Section 14 of the Limitation Act per se are not applicable, in our opinion, the principles thereof would be applicable for the purpose of condonation of delay in filing an appeal or a revision application in terms of Section 5 thereof.

18. It is also now a well-settled principle of law that mentioning of a wrong provision or non-mentioning of any provision of law would, by itself, be not sufficient to take away the jurisdiction of a court if it is otherwise vested in it in law. While exercising its power, the court will merely consider whether it has the source to exercise such power or not. The court will not apply the beneficent provisions like Sections 5 and

14 of the Limitation Act in a pedantic manner. When the provisions are meant to apply and in fact found to be applicable to the facts and circumstances of a case, in our opinion, there is no reason as to why the court will refuse to apply the same only because a wrong provision has been mentioned. In a case of this nature, sub-section (2) of Section 14 of the Limitation Act per se may not be applicable, but, as indicated hereinbefore, the principles thereof would be applicable for the purpose of condonation of delay in terms of Section 5 thereof."

The Court further quoted from Consolidated Engineering Enterprises an instructive passage:

"21. In Consolidated Engg. Enterprises v. Irrigation Deptt. [(2008) 7 SCC 169] this Court held: (SCC p. 181, para 22)

"22. The policy of the section is to afford protection to a litigant against the bar of limitation when he institutes a proceeding which by reason of some technical defect cannot be decided on merits and is dismissed. While considering the provisions of Section 14 of the Limitation Act, proper approach will have to be adopted and the provisions will have to be interpreted so as to advance the cause of justice rather than abort the proceedings. It will be well to bear in mind that an element of mistake is inherent in the invocation of Section 14. In fact, the section is intended to provide relief against the bar of limitation in cases of mistaken remedy or selection of a wrong forum. On reading Section 14 of the Act it becomes clear that the legislature has enacted the said section to exempt a certain period covered by a bona fide litigious activity. Upon the words used in the section, it is not possible to sustain the interpretation that the principle underlying the said section, namely, that the bar of limitation should not affect a person honestly doing his best to get his case tried on merits but failing because the court is unable to give him such a trial, would not be applicable to an application filed under Section 34 of the Act of 1996. The principle is clearly applicable not only to a case in which a litigant brings his application in the court, that is, a court having no jurisdiction to entertain it but also where he brings the suit or the application in the wrong court in consequence of bona fide mistake or (sic of) law or defect of procedure. Having regard to the intention of the legislature this Court is of the firm opinion that the equity underlying Section 14 should be applied to its fullest extent and time taken diligently pursuing a remedy, in a wrong court, should be excluded. See Shakti Tubes Ltd. v. State of Bihar [(2009) 1 SCC 786]."

33. Various provisions of the Limitation Act are based on advancing the cause of justice. Section 6 is one such. It reads as follows:-

*"6. **Legal disability.**—(1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefor in the third column of the Schedule.*

(2) Where such person is, at the time from which the prescribed period is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.

> *(3) Where the disability continues up to the death of that person, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been allowed from the time so specified.*
>
> *(4) Where the legal representative referred to in sub-section (3) is, at the date of the death of the person whom he represents, affected by any such disability, the rules contained in sub-sections (1) and (2) shall apply.*
>
> *(5) Where a person under disability dies after the disability ceases but within the period allowed to him under this section, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been available to that person had he not died.*
>
> *Explanation.—For the purposes of this section, 'minor' includes a child in the womb."*

On the assumption that Section 6 does not apply on the facts of a given case, can it be said that the principles on which it is based have no application? Suppose, in a given case, the person entitled to institute a proceeding not governed by the Limitation Act were a minor, a lunatic or an idiot, would he not be entitled to institute such proceedings after such disability has ceased, for otherwise he would be barred by the period of limitation contained in the particular statute governing his rights. This Section again is a pointer to the fact that courts always lean in favour of advancing the cause of justice where a clear case is made out for so doing.

34. However, it remains to consider whether Shri Sanghi is right in stating that Section 128 is a complete code by itself which necessarily excludes the application of Section 14 of the Limitation Act. For this proposition he relied strongly on Parson Tools which has been discussed hereinabove. As has already been stated, Parson Tools was a judgment which turned on the three features mentioned in the said case. Unlike the U.P. Sales Tax Act, there is no provision in the Customs Act which enables a party to invoke *suo moto* the appellate power and grant relief to a person who institutes an appeal out of time in an appropriate case. Also, Section 10 of the U.P. Sales Tax Act dealt with the filing of a revision petition after a first appeal had already been rejected, and not to a case of a first appeal as provided under Section 128 of the Customs Act. Another feature, which is of direct relevance in this case, is that for revision petitions filed under the U.P. Sales Tax Act a sufficiently long period of 18 months had been given beyond which it was the policy of the legislature not to extend limitation any further. This aspect of Parson Tools has been explained in Consolidated Engineering in some detail by both the main judgment as well as the concurring judgment. In the latter judgment, it has been pointed out that there is a vital distinction between extending time and condoning delay. Like Section 34 of the Arbitration Act, Section 128 of the Customs Act is a Section which lays down that delay cannot be condoned beyond a certain period. Like Section 34 of the Arbitration Act, Section 128 of the Customs Act does not lay down a long period. In these circumstances, to infer exclusion of Section 14 or the principles contained in Section 14 would be unduly harsh and would not advance the cause of justice. It must not be forgotten as is pointed out in the concurring judgment in Consolidated Engineering that:

> *"Even when there is cause to apply Section 14, the limitation period continues to be three months and not more, but in computing the limitation period of three months for the application under Section 34(1) of the AC Act, the time during which the applicant was prosecuting such application before the wrong court is excluded, provided the proceeding in the wrong court was prosecuted bona fide, with due diligence. Western Builders [(2006) 6 SCC 239] therefore lays down the correct legal position."*

35. Merely because Parson Tools also dealt with a provision in a tax statute does not make the ratio of the said decision apply to a completely differently worded tax statute with a much shorter period of limitation – Section 128 of the Customs Act. Also, the principle of Section 14 would apply not merely in condoning delay within the outer period prescribed for condonation but would apply *de hors* such period for the reason pointed out in Consolidated Engineering above, being the difference between exclusion of a certain period altogether under Section 14 principles and condoning delay. As has been pointed out in the said judgment, when a certain period is excluded by applying the principles contained in Section 14, there is no delay to be attributed to the appellant and the limitation period provided by the concerned statute continues to be the stated period and not more than the stated period. We conclude, therefore, that the principle of Section 14 which is a principle based on advancing the cause of justice would certainly apply to exclude time taken in prosecuting proceedings which are bona fide and with due diligence pursued, which ultimately end without a decision on the merits of the case.

36. Shri Sanghi also cited **Ranbaxy Laboratories Ltd. v. Union of India,** (2011) 10 SCC 292. He relied upon paragraph 14 of this judgment which reads as follows:-

> *"14. It is a well-settled proposition of law that a fiscal legislation has to be construed strictly and one has to look merely at what is said in the relevant provision; there is nothing to be read in; nothing to be implied and there is no room for any intendment. (See Cape Brandy Syndicate v. IRC [(1921) 1 KB 64] and Ajmera Housing Corpn. v.CIT [(2010) 8 SCC 739] .)".*

37. We do not see how this judgment furthers the argument of Shri Sanghi. This is only reiteration of the classic statement of law contained in the Cape Brandy Syndicate case. Further, the context of this paragraph is that a literal meaning has to be given to a charging Section in a tax statute. When it comes to machinery provisions in tax statutes and provisions which provide for appeals and the limitation period within which such appeals have to be filed, it is clear that the aforesaid observations would have no application whatsoever.

38. Shri Sanghi then referred us to **Sree Balaji Nagar Residential Assn. v. State of Tamil Nadu,** (2015) 3 SCC 353 and read out paragraphs 10 and 11 from the said judgment. What was held by this Court in that case was that Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 does not exclude any period during which a land acquisition proceeding which might have remain stayed on account of an injunction granted by any Court. This was so held by contrasting the language of section 24(2) with the language of Section 19 and Section 69 of the same Act. This judgment again would have no direct bearing on the proposition canvassed by Shri Sanghi that Section 128 of the Customs Act forms a complete code by itself.

What periods are to be excluded under Section 14

39. Shri Viswanathan, learned senior counsel appearing for the appellant, placed before us a judgment of the Andhra Pradesh High Court in which it was held that even prior to the institution of a particular proceeding, time taken in steps taken for prosecuting such proceedings should also be excluded. In **Tirumareddi Rajarao & Ors. v. The State of Andhra Pradesh & Ors.,** AIR 1965 A.P. 388, the Andhra Pradesh High Court held that the period taken for preparatory steps before instituting proceedings should also be excluded. It said:

> *"13. We may now turn to the Chambers Twentieth Century Dictionary for the meanings of the expression "to prosecute". It means: To follow onwards or pursue in*

order to reach or accomplish; to engage in practise to follow up to pursue, chase, to pursue by law; to bring before a Court.

14. These meanings do not vouch the construction of the section advanced by the learned Government Pleader. In our opinion, the section does not render it essential that the prosecution of the proceedings should be continued exclusively in the Court, i.e. the actual proceeding in the Court. There is justification for the view that it is only the actual period between the presentation of a proceedings and the disposal of that particular proceeding should be allowed under the sub-section. The time during which a party has been taking the indispensable and necessary steps preparatory to initiate the proceedings in a court should also be regarded as the time during which he has been prosecuting the civil proceeding. It is also to be borne in mind that sub-section (1) makes no reference to the pendency of the suit, appeal or other proceeding in a Court of law. The legislature had used words of general import and of widest amplitude. So, we do not find any justification for reading a restriction into that sub-section and to hold that the time during which a party was engaged in taking steps for invoking the aid of the Court falls outside the contemplation urged on behalf of the respondents, while the pendency of a proceeding in a Court could be deducted in computing the period of limitation, the time occupied in obtaining certified copies of the judgment which is an essential requisite for the filing of an appeal or revision in the higher Court has to be disregarded for purposes of S. 14. We do not think that the legislature would have contemplated such a situation. It would certainly result in an anomaly to hold that the time covered by taking the steps absolutely necessary for initiating proceedings in a Court should be included in calculating the period of limitation while the time during which a former suit or application was pending in a Court should be excluded. In our considered judgment the section does not make any distinction between the steps which a litigant has to take to initiate proceedings in a Court and the actual pendency of those proceedings in the Court."

40. In **Mst. Duliyabai & Ors. v. Vilayatali & Ors.,** AIR 1959 MP 271, a Division Bench of the High Court held:-

"What would be the time during which the plaintiff has been prosecuting with due diligence another civil proceeding in a Court of appeal? Certainly the time requisite for obtaining the certified copies under Section 12 of the Limitation Act would be included within the meaning of the section. Also the limitation prescribed for the filing of an appeal would be included, if the appeal be filed on the last day of limitation.

But if the appeal be filed earlier, the time from the date of the order impugned upto the actual date of filing of the appeal would certainly be the time during which the plaintiff can be said to be prosecuting another civil proceeding in a court of appeal. We are unable to endorse the view of the learned trial Judge on this point. A Division Bench of this Court consisting of Sir Gilbert Stone, C. J. and Niyogi, J., in the case of Kasturchand v. Wazir Begum' : (AIR 1937 Nag 1) : ILR (1937) Nag 291, held with reference to Article 11 (1) of the Limitation Act as follows:

"Then it is said that the plaintiff is out of time owing to the operation of Article 11 (1) of the Limitation Act which, in the case of a suit by a person against whom an order is passed on his objection in execution proceedings, fixes one year. The dates are as follows: the objection order was passed on 5-3- 1928. The plaint was presented in one Court on 15-9-1928, of course in time. That was returned by that Court on 14-12-1928, for presentation to what that Court held to be the proper Court. The plaintiff challenging the correctness of that order appealed on 6-2-1929 and the appeal was

dismissed on 2-9-1929, and the plaint was presented to the Court as decided by die first Court, on 25-11-1929. In our opinion the plaintiff has been litigating the matter in a Court which she bona fide believed to be the correct tribunal, believing, to the extent of incurring costs of an appeal against the decision that it was not the correct tribunal, for something like 10 months.

Those 10 months must be taken into account in considering the period that has elapsed between the date of suit and the date when the plaint was eventually filed in the correct Court, and if this is so taken into account the time that has expired is less than a year. The limitation point, therefore, in our opinion, fails."

In the case of Abdul Sattar v. Abdul Husan, AIR 1936 Cal 400, the plaintiffs had applied for execution of their decree. The judgment-debtors raised objections to the execution on the ground of adjustment of the decree. The question of adjustment was fought in appeals upto the highest Court. Ultimately it was decided against the plaintiffs by the final appellate Court. The learned Judges constituting the Division Bench held that the plaintiffs were entitled to exclude the entire period from the date of the order recording the adjustment upto the date of the final order of the highest appellate Court. We feel that this interpretation of Section 14 is in consonance with the wording of the Section. Therefore, differing from the learned trial Judge, we hold that the appellants were entitled to exclude the period from 18-9-1948 to 15-12-1948."

41. The language of Section 14, construed in the light of the object for which the provision has been made, lends itself to such an interpretation. The object of Section 14 is that if its conditions are otherwise met, the plaintiff/applicant should be put in the same position as he was when he started an abortive proceeding. What is necessary is the absence of negligence or inaction. So long as the plaintiff or applicant is bonafide pursuing a legal remedy which turns out to be abortive, the time beginning from the date of the cause of action of an appellate proceeding is to be excluded if such appellate proceeding is from an order in an original proceeding instituted without jurisdiction or which has not resulted in an order on the merits of the case. If this were not so, anomalous results would follow. Take the case of a plaintiff or applicant who has succeeded at the first stage of what turns out to be an abortive proceeding. Assume that, on a given state of facts, a defendant – appellant or other appellant takes six months more than the prescribed period for filing an appeal. The delay in filing the appeal is condoned. Under explanation (b) of Section 14, the plaintiff or the applicant resisting such an appeal shall be deemed to be prosecuting a proceeding. If the six month period together with the original period for filing the appeal is not to be excluded under Section 14, the plaintiff/applicant would not get a hearing on merits for no fault of his, as he in the example given is not the appellant. Clearly therefore, in such a case, the entire period of nine months ought to be excluded. If this is so for an appellate proceeding, it ought to be so for an original proceeding as well with this difference that the time already taken to file the original proceeding, i.e. the time prior to institution of the original proceeding cannot be excluded. Take a case where the limitation period for the original proceeding is six months. The plaintiff/applicant files such a proceeding on the ninetieth day i.e. after three months are over. The said proceeding turns out to be abortive after it has gone through a chequered career in the appeal courts. The same plaintiff/applicant now files a fresh proceeding before a court of first instance having the necessary jurisdiction. So long as the said proceeding is filed within the remaining three month period, Section 14 will apply to exclude the entire time taken starting from the ninety first day till the final appeal is ultimately dismissed. This example also goes to show that the expression "the time during which the plaintiff has been prosecuting with due diligence another civil proceeding" needs

to be construed in a manner which advances the object sought to be achieved, thereby advancing the cause of justice.

42. Section 14 has been interpreted by this Court extremely liberally inasmuch as it is a provision which furthers the cause of justice. Thus, in **Union of India v. West Coast Paper Mills Ltd.,** (2004) 3 SCC 458, this Court held:

> *"14. ... In the submission of the learned Senior Counsel, filing of civil writ petition claiming money relief cannot be said to be a proceeding instituted in good faith and secondly, dismissal of writ petition on the ground that it was not an appropriate remedy for seeking money relief cannot be said to be 'defect of jurisdiction or other cause of a like nature' within the meaning of Section 14 of the Limitation Act. It is true that the writ petition was not dismissed by the High Court on the ground of defect of jurisdiction. However, Section 14 of the Limitation Act is wide in its application, inasmuch as it is not confined in its applicability only to cases of defect of jurisdiction but it is applicable also to cases where the prior proceedings have failed on account of other causes of like nature. The expression 'other cause of like nature' came up for the consideration of this Court in* ***Roshanlal Kuthalia v. R.B. Mohan Singh Oberoi****[(1975) 4 SCC 628] and it was held that Section 14 of the Limitation Act is wide enough to cover such cases where the defects are not merely jurisdictional strictly so called but others more or less neighbours to such deficiencies. Any circumstance, legal or factual, which inhibits entertainment or consideration by the court of the dispute on the merits comes within the scope of the section and a liberal touch must inform the interpretation of the Limitation Act which deprives the remedy of one who has a right."*

Similarly, in **India Electric Works Ltd. v. James Mantosh,** (1971) 1 SCC 24, this Court held:

> *"7. It is well settled that although all questions of limitation must be decided by the provisions of the Act and the courts cannot travel beyond them the words 'or other cause of a like nature' must be construed liberally. Some clue is furnished with regard to the intention of the legislature by Explanation III in Section 14(2). Before the enactment of the Act in 1908, there was a conflict amongst the High Courts on the question whether misjoinder and non-joinder were defects which were covered by the words 'or other cause of a like nature'. It was to set at rest this conflict that Explanation III was added. An extended meaning was thus given to these words. Strictly speaking misjoinder or non-joinder of parties could hardly be regarded as a defect of jurisdiction or something similar or analogous to it."*

43. As has been already noticed, **Sarathy's** case i.e. (2000) 5 SCC 355 has also held that the court referred to in Section 14 would include a quasi-judicial tribunal. There appears to be no reason for limiting the reach of the expression "prosecuting with due diligence" to institution of a proceeding alone and not to the date on which the cause of action for such proceeding might arise in the case of appellate or revisional proceedings from original proceedings which prove to be abortive. Explanation (a) to Section 14 was only meant to clarify that the day on which a proceeding is instituted and the day on which it ends are also to be counted for the purposes of Section 14. This does not lead to the conclusion that the period from the cause of action to the institution of such proceeding should be left out. In fact, as has been noticed above, the explanation expands the scope of Section 14 by liberalizing it. Thus, under explanation (b) a person resisting an appeal is also deemed to be prosecuting a proceeding. But for explanation (b), on a literal reading of Section 14, if a person has won in the first round of litigation and an appeal is filed by his opponent, the period of such appeal would not be liable to be excluded under the Section, leading to an

absurd result. That is why a plaintiff or an applicant resisting an appeal filed by a defendant shall also be deemed to prosecute a proceeding so that the time taken in the appeal can also be the subject matter of exclusion under Section 14. Equally, explanation (c) which deems misjoinder of parties or a cause of action to be a cause of a like nature with defect of jurisdiction, expands the scope of the section. We have already noticed that the India Electric Works Ltd. judgment has held that strictly speaking misjoinder of parties or of causes of action can hardly be regarded as a defect of jurisdiction or something similar to it. Therefore properly construed, explanation (a) also confers a benefit and does not by a side wind seek to take away any other benefit that a purposive reading of Section 14 might give. We, therefore, agree with the decision of the Madhya Pradesh High Court that the period from the cause of action till the institution of appellate or revisional proceedings from original proceedings which prove to be abortive are also liable to exclusion under the Section. The view of the Andhra Pradesh High Court is too broadly stated. The period prior to institution of the initiation of any abortive proceeding cannot be excluded for the simple reason that Section 14 does not enable a litigant to get a benefit beyond what is contemplated by the Section - that is to put the litigant in the same position as if the abortive proceeding had never taken place.

What applies to the facts of this case: the limitation period in Section 128 pre-amendment or post amendment

44. Shri A.K. Sanghi, learned senior counsel appearing on behalf of the revenue, has strongly contended before us that the present appeal must attract the limitation period as on the date of its filing. That being so, it is clear that the present appeal having been filed before CESTAT only on 23.5.2003, it is Section 128 post amendment that would apply and therefore the maximum period available to the appellant would be 60 plus 30 days. Even if time taken in the abortive proceedings is to be excluded, the appeal filed will be out of time being beyond the aforesaid period.

45. It is settled law that periods of limitation are procedural in nature and would ordinarily be applied retrospectively. This, however, is subject to a rider. In **New India Insurance Co. Ltd. v. Shanti Misra,** (1975) 2 SCC 840, this Court held:

> *"5. On the plain language of Sections 110-A and 110-F there should be no difficulty in taking the view that the change in law was merely a change of forum i.e. a change of adjectival or procedural law and not of substantive law. It is a well- established proposition that such a change of law operates retrospectively and the person has to go to the new forum even if his cause of action or right of action accrued prior to the change of forum. He will have a vested right of action but not a vested right of forum. If by express words the new forum is made available only to causes of action arising after the creation of the forum, then the retrospective operation of the law is taken away. Otherwise the general rule is to make it retrospective."*

46. In answering a question which arose under Section 110A of the Motor Vehicles Act, this Court held:

> *"7....."(1) Time for the purpose of filing the application under Section 110-A did not start running before the constitution of the tribunal. Time had started running for the filing of the suit but before it had expired the forum was changed. And for the purpose of the changed forum, time could not be deemed to have started running before a remedy of going to the new forum is made available.*
>
> *(2) Even though by and large the law of limitation has been held to be a procedural law, there are exceptions to this principle. Generally the law of limitation which is in vogue on the date of the commencement of the action governs it. But there are certain exceptions to this principle. The new law of limitation providing a longer period*

cannot revive a dead remedy. Nor can it suddenly extinguish a vested right of action by providing for a shorter period of limitation."

47. This statement of the law was referred to with approval in **Vinod Gurudas Raikar v. National Insurance Co. Ltd.**, (1991) 4 SCC 333 as follows:-

"7. It is true that the appellant earlier could file an application even more than six months after the expiry of the period of limitation, but can this be treated to be a right which the appellant had acquired. The answer is in the negative. The claim to compensation which the appellant was entitled to, by reason of the accident was certainly enforceable as a right. So far the period of limitation for commencing a legal proceeding is concerned, it is adjectival in nature, and has to be governed by the new Act — subject to two conditions. If under the repealing Act the remedy suddenly stands barred as a result of a shorter period of limitation, the same cannot be held to govern the case, otherwise the result will be to deprive the suitor of an accrued right. The second exception is where the new enactment leaves the claimant with such a short period for commencing the legal proceeding so as to make it unpractical for him to avail of the remedy. This principle has been followed by this Court in many cases and by way of illustration we would like to mention New India Insurance Co. Ltd. v.Smt Shanti Misra [(1975) 2 SCC 840 : (1976) 2 SCR 266] . The husband of the respondent in that case died in an accident in 1966. A period of two years was available to the respondent for instituting a suit for recovery of damages. In March, 1967 the Claims Tribunal under Section 110 of the Motor Vehicles Act, 1939 was constituted, barring the jurisdiction of the civil court and prescribed 60 days as the period of limitation. The respondent filed the application in July, 1967. It was held that not having filed a suit before March, 1967 the only remedy of the respondent was by way of an application before the Tribunal. So far the period of limitation was concerned, it was observed that a new law of limitation providing for a shorter period cannot certainly extinguish a vested right of action. In view of the change of the law it was held that the application could be filed within a reasonable time after the constitution of the Tribunal; and, that the time of about four months taken by the respondent in approaching the Tribunal after its constitution, could be held to be either reasonable time or the delay of about two months could be condoned under the proviso to Section 110- A(3)."

Both these judgments were referred to and followed in **Union of India v. Harnam Singh,** (1993) 2 SCC 162, see paragraph 12.

48. The aforesaid principle is also contained in Section 30(a) of the Limitation Act, 1963.

"30. ***Provision for suits, etc., for which the prescribed period is shorter than the period prescribed by the Indian Limitation Act, 1908.****—Notwithstanding anything contained in this Act,—*

(a) any suit for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, may be instituted within a period of [seven years] next after the commencement of this Act or within the period prescribed for such suit by the Indian Limitation Act, 1908, whichever period expires earlier:"

49. The reason for the said principle is not far to seek. Though periods of limitation, being procedural law, are to be applied retrospectively, yet if a shorter period of limitation is provided by a later amendment to a statute, such period would render the vested right of

action contained in the statute nugatory as such right of action would now become time barred under the amended provision.

50. This aspect of the matter is brought out rather well in **Thirumalai Chemicals Ltd. v. Union of India,** (2011) 6 SCC 739 as follows:

> *"22. Law is well settled that the manner in which the appeal has to be filed, its form and the period within which the same has to be filed are matters of procedure, while the right conferred on a party to file an appeal is a substantive right. The question is, while dealing with a belated appeal under Section 19(2) of FEMA, the application for condonation of delay has to be dealt with under the first proviso to sub-section (2) of Section 52 of FERA or under the proviso to sub-section (2) of Section 19 of FEMA. For answering that question it is necessary to examine the law on the point.*

Substantive and procedural law

> *23. Substantive law refers to a body of rules that creates, defines and regulates rights and liabilities. Right conferred on a party to prefer an appeal against an order is a substantive right conferred by a statute which remains unaffected by subsequent changes in law, unless modified expressly or by necessary implication. Procedural law establishes a mechanism for determining those rights and liabilities and a machinery for enforcing them. Right of appeal being a substantive right always acts prospectively. It is trite law that every statute is prospective unless it is expressly or by necessary implication made to have retrospective operation.*
>
> *24. Right of appeal may be a substantive right but the procedure for filing the appeal including the period of limitation cannot be called a substantive right, and an aggrieved person cannot claim any vested right claiming that he should be governed by the old provision pertaining to period of limitation. Procedural law is retrospective meaning thereby that it will apply even to acts or transactions under the repealed Act.*
>
> *25. Law on the subject has also been elaborately dealt with by this Court in various decisions and reference may be made to a few of those decisions. This Court in Garikapati Veeraya v. N. Subbiah Choudhry [AIR 1957 SC 540], New India Insurance Co. Ltd. v. Shanti Misra [(1975) 2 SCC 840], Hitendra Vishnu Thakur v. State of Maharashtra [(1994) 4 SCC 602 : 1994 SCC (Cri) 1087], Maharaja Chintamani Saran Nath Shahdeo v. State of Bihar [(1999) 8 SCC 16] and Shyam Sunder v. Ram Kumar [(2001) 8 SCC 24] , has elaborately discussed the scope and ambit of an amending legislation and its retrospectivity and held that every litigant has a vested right in substantive law but no such right exists in procedural law. This Court has held that the law relating to forum and limitation is procedural in nature whereas law relating to right of appeal even though remedial is substantive in nature.*
>
> *26. Therefore, unless the language used plainly manifests in express terms or by necessary implication a contrary intention a statute divesting vested rights is to be construed as prospective, a statute merely procedural is to be construed as retrospective and a statute which while procedural in its character, affects vested rights adversely is to be construed as prospective."*

51. This judgment was strongly relied upon by Shri A.K. Sanghi for the proposition that the law in force on the date of the institution of an appeal, irrespective of the date of accrual of the cause of action for filing an appeal, will govern the period of limitation. Ordinarily, this may well be the case. As has been noticed above, periods of limitation being procedural in nature would apply retrospectively. On the facts in the judgment in the Thirumalai case, it was held that the repealed provision contained in the Foreign Exchange

Regulation Act, namely, Section 52 would not apply to an appeal filed long after 1.6.2000 when the Foreign Exchange Management Act came into force, repealing the Foreign Exchange Regulation Act. It is significant to note that Section 52(2) of the repealed Act provided a period of limitation of 45 plus 45 days and no more whereas Section 19(2) of FEMA provided for 45 days with no cap thereafter provided sufficient cause to condone delay is shown. On facts, in that case, the appeal was held to be properly instituted under Section 19, which as has been stated earlier, had no cap to condonation of delay. It was, therefore, held that the Appellate Tribunal in that case could entertain the appeal even after the period of 90 days had expired provided sufficient cause for the delay was made out.

52. The present case stands on a slightly different footing. The abortive appeal had been filed against orders passed in March- April, 1992. The present appeal was filed under Section 128, which Section continues on the statute book till date. Before its amendment in 2001, it provided a maximum period of 180 days within which an appeal could be filed. Time began to run on 3.4.1992 under Section 128 pre amendment when the appellant received the order of the Superintendent of Customs intimating it about an order passed by the Collector of Customs on 25.3.1992. Under Section 128 as it then stood a person aggrieved by a decision or order passed by a Superintendent of Customs could appeal to the Collector (Appeals) within three months from the date of communication to him of such decision or order. On the principles contained in Section 14 of the Limitation Act the time taken in prosecuting an abortive proceeding would have to be excluded as the appellant was prosecuting bona fide with due diligence the appeal before CEGAT which was allowed in its favour by CEGAT on 23.6.1998. The Department preferred an appeal against the said order sometime in the year 2000 which appeal was decided in their favour by this court only on 12.3.2003 by which CEGAT's order was set aside on the ground that CEGAT had no jurisdiction to entertain such appeal. The time taken from 12.3.2003 to 23.5.2003, on which date the present appeal was filed before the Commissioner (Appeals) would be within the period of 180 days provided by the pre amended Section 128, when added to the time taken between 3.4.1992 and 22.6.1992. The amended Section 128 has now reduced this period, with effect from 2001, to 60 days plus 30 days, which is 90 days. The order that is challenged in the present case was passed before 2001. The right of appeal within a period of 180 days (which includes the discretionary period of 90 days) from the date of the said order was a right which vested in the appellant. A shadow was cast by the abortive appeal from 1992 right upto 2003. This shadow was lifted when it became clear that the proceeding filed in1992 was a proceeding before the wrong forum. The vested right of appeal within the period of 180 days had not yet got over. Upon the lifting of the shadow, a certain residuary period within which a proper appeal could be filed still remained. That period would continue to be within the period of 180 days notwithstanding the amendment made in 2001 as otherwise the right to appeal itself would vanish given the shorter period of limitation provided by Section 128 after 2001.

53. We, therefore, set aside the order dated 25.2.2004 and remand the case to ***jurisdictional Commissioner (Appeals)**** for a decision on merits. The appeal is allowed in the aforesaid terms. There will be no order as to costs.

*Corrected as jurisdictional Commissioner (Appeals) instead of CESTAT as per order dated 24-4-15.

Issue 10
May 2015

PUNJAB & HARYANA HIGH COURT

CWP 7580 OF 2015

GARG CONSTRUCTION CO
Vs.
STATE OF HARYANA AND ANOTHER

S.J.VAZIFDAR, ACTING CHIEF JUSTICE AND G.S. SANDHAWALIA, J

23rd April, 2015

HF ▶ Petitioner- assessee

REFUND – NON COMPLIANCE OF ORDER -EXCESS TAX PAID ORDERED TO BE REFUNDED BY ASSESSING AUTHORITY – NON COMPLIANCE OF ORDER BY RESPONDENTS – WRIT FILED – RESPONDENTS DIRECTED TO GRANT REFUND WITHIN A FIXED PERIOD SUBJECT TO ANY OTHER ORDER PASSED IN RESPECT OF ASSESSMENT ORDERS – WRIT DISPOSED OF

As per the assessment order dated 31/3/2014, the petitioner was to be granted refund of excess tax paid by it. However, the amount due was not refunded. A writ was filed in this regard. The respondents have been directed that the petitioner be refunded the amount on or before 31.5.15. This order is passed subject to any other orders passed in respect of assessment order dated 31.3.2014. The writ is disposed of.

Present: Mr. Sandeep Goyal, Advocate, for the petitioner.

*****

S.J. VAZIFDAR, A.C.J.

Notice of motion.

Service of the notice upon the respondents is waived as Ms. Mamta Singla Talwar, learned Assistant Advocate General, Haryana accepts notice on their behalf.

2. With the consent of the parties, the petition is taken up for final hearing and disposed of at this stage.

3. The petitioner's only grievance is that the respondents have not paid over the excess tax paid by them as ordered to be refundable by the Excise and Taxation Commissioner-cum-Assessing Authority, Kurukshetra by the assessment order dated 31.03.2014 (Annexure P1). The respondents are directed to refund the amount as per the said order dated 31.03.2014 (Annexure P1) on or before 31.05.2015. This, however, is subject to any other orders that may have been passed in respect of the order dated 31.03.2014 (Annexure P1).

4. No order as to costs.

SGA
LAW OFFICES

PUNJAB & HARYANA HIGH COURT

CWP-7788 OF 2015

HARYANA POWER GENERATION CORPORATION LTD.
Vs.
STATE OF HARYANA AND ANOTHER

S.J.VAZIFDAR, ACTING CHIEF JUSTICE AND G.S. SANDHAWALIA, J

24th April, 2015

HF ▶ Petitioner- State undertaking

APPEAL – ENTERTAINMENT OF – SURETY BOND – APPEAL PENDING BEFORE FIRST APPELLATE AUTHORITY – WRIT FILED – DIRECTION GIVEN TO FIRST APPELLATE AUTHORITY TO ENTERTAIN APPEAL ON MERITS IF SURETY BOND FURNISHED BY THE DATE FIXED – PETITIONER BEING AN UNDERTAKING MANAGED BY STATE ITSELF, NO COERCIVE ACTION TO BE TAKEN PURSUANT TO DEMAND – WRIT DISPOSED OF – SEC 33(5) OF HARYANA VAT ACT

In the case, direction is issued to the first appellate authority before which the appeal is already pending, to hear the appeal on merits in the event of petitioner furnishing the surety bond as required under sec 33 of the Act. It is also ordered that no coercive action should be taken against the petitioner pursuant to the demand as it is an undertaking managed and controlled by the state itself. The writ is disposed of.

Present: Mr. K.L. Goyal, Senior Advocate, with
Mr. Sandeep Goyal, Advocate, for the petitioner.

Ms. Mamta Singla Talwar, Assistant Advocate General, Haryana.

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S.J. VAZIFDAR, A.C.J.

This writ petition is similar to CWP-7789-2015 except that in the present case the appeal is pending before the first appellate authority itself.

2. The writ petition is, therefore, disposed of by directing the first appellate authority to decide the petitioner's appeal on merits in the event of the petitioner furnishing the surety bond as required by Section 33(5) of the Act by 10.05.2015 or such extended date as may be stipulated by the first appellate authority.

3. The petitioner is an undertaking controlled and managed by the State of Haryana itself. In these circumstances, pending disposal of the appeal, no coercive action shall be taken pursuant to the demand.

PUNJAB & HARYANA HIGH COURT

CWP 7789 OF 2015

HARYANA POWER GENERATION CORPORATION LTD.
Vs.
STATE OF HARYANA AND ANOTHER

S.J.VAZIFDAR, ACTING CHIEF JUSTICE AND G.S. SANDHAWALIA, J

24th April, 2015

HF ▶ Petitioner

APPEAL- ENTERTAINMENT OF – SURETY BOND – DISMISSAL OF APPEAL BY FIRST APPELLATE AUTHORITY DUE TO FAILURE TO FURNISH SURETY BOND – TRIBUNAL NOT CONSTITUTED TO DECIDE THE APPEAL FILED AGAINST THE IMPUGNED ORDER – WRIT FILED – PETITIONER WILLING TO FURNISH SECURITY – FIRST APPELLATE AUTHORITY DIRECTED TO DISPOSE OF THE APPEAL ON MERITS IF SURETY FURNISHED BY THE DATE FIXED – NO COERCIVE ACTION TO BE TAKEN AGAINST PETITIONER IN VIEW OF IT BEING A STATE UNDERTAKING – WRIT DISPOSED OF – SEC 33 (5) OF THE HVAT ACT

The first appellate Authority had dismissed the appeal due to non – furnishing of security as required u/s 33 of the Act. An appeal against the impugned order was pending before Tribunal since it was not constituted then. Therefore, a writ was filed .The petitioner was now willing to furnish the security. Disposing of the petition, the court has issued a direction to the first appellate authority to hear the appeal on merits in the event of security being furnished by the date fixed or such extended date as stipulated by the authority. Also, it is directed that since the petitioner was an undertaking of the state, no coercive action to be taken till pendency of appeal pursuant to the demand.

Present: Mr. K.L. Goyal, Senior Advocate, with
Mr. Sandeep Goyal, Advocate, for the petitioner.

Ms. Mamta Singla Talwar, Assistant Advocate General, Haryana.

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S.J. VAZIFDAR, A.C.J.

The only reason that the petitioner has filed this writ petition is that the Tribunal has not been constituted under the Haryana Value Added Tax Act, 2003 (in short the Act). The only order challenged before the Tribunal is of dismissal of the petitioner's appeal before the first appellate authority for not having furnished the surety bond as required by Section 33(5) of the Act. The petitioner is now ready and willing to furnish the same.

2. In these circumstances, the writ petition is disposed of by directing the first appellate authority to dispose of the petitioner's appeal on merits in the event of the petitioner furnishing the surety bond in accordance with Section 33(5) of the Act on or before 10.05.2015 or such extended date as may be stipulated by the first appellate authority.

3. The petitioner is an undertaking controlled and managed by the State of Haryana itself. In these circumstances, pending disposal of the appeal, no coercive action shall be taken pursuant to the demand.

PUNJAB & HARYANA HIGH COURT

CWP-7297 OF 2015

PADAM MOTORS PVT. LTD.
Vs.
THE STATE OF HARYANA AND OTHERS

S.J.VAZIFDAR, ACTING CHIEF JUSTICE AND G.S. SANDHAWALIA, J

21st April, 2015

HF ▶ Petitioner

STAY OF RECOVERY – SECURITY – APPEAL PENDING BEFORE TRIBUNAL – WRIT FILED AS TRIBUNAL NOT CONSTITUTED – DIRECTION ISSUED TO RESPONDENTS TO DECIDE IF SECURITY OFFERED ADEQUATE – RECOVERY TO BE STAYED TILL PENDENCY OF SUCH DECISION PLUS ONE WEEK THEREAFTER – PETITIONER REFRAINED FROM DISPOSING OF ITS IMMOVABLE PROPERTY TILL THEN – WRIT DISPOSED OF

As the Tribunal was not constituted and the appeal filed by the petitioner was pending before Tribunal, a writ is filed before High Court against the notice dated 1/4//2015 for stay of recovery. The Hon'ble High Court has issued a direction to respondents to decide whether security offered by petitioner was adequate or not. Till such decision was taken, no recovery was to be made pursuant to the notice dated 1/4/2015. The petitioner has been refrained from disposing of its immovable property or encumbering the same in any manner till then. The writ is disposed of.

Present: Mr. Sandeep Goyal, Advocate, for the petitioner.
Ms. Mamta Singla Talwar, Assistant Advocate General, Haryana.

* * * *

S.J. VAZIFDAR, A.C.J.

As in several other cases, the only reason that this petition has been filed is because the Tribunal under the Haryana Value Added Tax Act, 2003 has not been constituted. The appeal filed by the petitioner, therefore, cannot proceed before the Tribunal at this stage. The petition is disposed of by passing an order similar to the one passed in several other matters including CWP-5616-2015.

2. The writ petition is, therefore, disposed of by directing the concerned officer of the respondents to decide whether the security offered by the petitioner is adequate or not. Till such decision is taken and for a period of one week thereafter, the recovery shall not be made pursuant to the notice dated 01.04.2015. Till then, in any event, the petitioner shall not dispose of its immovable properties or encumber the same in any manner whatsoever.

PUNJAB & HARYANA HIGH COURT

CWP 14863 OF 2013

RUBBER RECLAIM COMPANY OF INDIA PVT. LTD.
Vs.
STATE OF HARYANA AND OTHERS

S.J.VAZIFDAR, ACTING CHIEF JUSTICE AND G.S. SANDHAWALIA, J

27th April, 2015

HF ▶ Revenue

RES JUDICATA – VIRES – WHETHER CHALLENGEABLE FOR SECOND TIME WHEN ISSUE STANDS CLOSED BY APEX COURT – SALE TAX EXEMPTION WITHDRAWN AND DEMAND RAISED – CHALLENGE AGAINST ASSESSMENT ORDER AND VIRES OF RULE 28(A) – WRIT ALLOWED WITHOUT ADJUDICATING ISSUE OF VIRES – SLP FILED BY STATE – ORDER OF HIGH COURT SET ASIDE WITHOUT ADJUDICATING QUESTION OF VIRES – WRIT FILED BEFORE HIGH COURT ONCE AGAIN CHALLENGING VIRES – HELD, IN VIEW OF ORDER OF SUPREME COURT AND NO LIBERTY HAVING BEEN GRANTED TO PETITIONER TO RE AGITATE THE ISSUE OF VIRES – NEITHER LIBERTY SOUGHT BY PETITIONER TO LEAVE THE QUESTION OF VIRES OPEN –ISSUE HAVING STOOD FINALLY CLOSED, QUESTION OF VIRES NOT TO ARISE FOR SECOND TIME – FOLLOWING PRINCIPLE OF RES JUDICATA HIGH COURT BARRED TO ADJUDICATE ON MATTER ALREADY ADJUDICATED BY SUPREME COURT – WRIT DISMISSED.

The petitioner company had been granted sale tax deferment from 1992 to 1997 and sale tax exemption to the tune of Rs 68 lacs under Rule 28A of HGST Rules, 1975.

A notice was issued for violating conditions of Rule 28 A of the Act alleging that dispatch of goods on consignment basis was made during exemption period , thereby raising a demand of tax exempted and interest. The petitioner challenged the notice and vires of the Rules. The court directed the assessing authority to give an opportunity of hearing to the petitioner. However, a demand was raised vide assessment order dated 2005 under the CST Act, 1985 to the tune of Rs 5433480/- and exemption was withdrawn. This order was again challenged before High Court alongwith challenge to vires of the provision which was allowed without going into vires of the rule and on the ground that interstate transfer of consignment was not sale. The SLP filed by the state against the order was allowed and order of High Court was set aside holding that if there is violation of any conditions of the rule, exemption certificate can be cancelled and sale tax authorities can call upon for payment of tax with interest. The withdrawl of exemption was upheld and assessing authority was directed to pass fresh assessment order after opportunity of being heard was given to the petitioner. No order was, however passed on the issue of vires.

A writ is filed challenging the vires again before High Court. As per the orders of the Supreme court, no liberty was granted to re agitate the issue of vires. The issue infact stands closed. Once the Civil Appeal has been allowed, the question of raising the issue afresh does not arise

by challenging vires for the second time. Since the matter is already adjudicated between the parties by the Apex court, the jurisdiction of the High Court is barred by the principle of constructive Res judicata in the facts and circumstances of the case. The writ is dismissed.

Case referred:

State of Haryana and another Vs Rubber Reclaim Co. of India (2013) 14 SCC 763
M. Nagabhushana Vs. State of Karnataka (2011) 3 SCC 408

Present: Mr.Sumeet Mahajan, Senior Advocate with
Mr.Rohit Khanna, Mr.Suman Jyoti Khaitan, Mr.Vikas Kumar and
Mr.Amit Kohar, Advocates for the petitioner
Ms. Mamta Singla Talwar, Assistant Advocate General, Haryana
for the respondents.

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G.S.SANDHAWALIA, J.

1. In the present writ petition, the petitioner-company has raised challenge to Rule 28-A(11)(A)(II)(B) of the Haryana General Sales Tax Rules, 1975 (hereinafter referred to as "the Rules") as ultra vires the Sick Industrial Company (Special Provisions) Act, 1985 (hereinafter referred to as "the SICA") and prohibiting the respondents from raising any demand on the petitioner as per exemption certificate dated 1.2.1994.

2. The pleaded case of the petitioner-company is that it was duly registered under the provisions of the Act and having registration certificate dated 17.5.1966. The petitioner-company had suffered heavy losses as on 31.3.1990 to the tune of Rs.113.45 lacs against the paid capital of Rs.18.86 lacs and reserves of Rs.53.39 lacs. Accordingly, it had approached the Board for Industrial and Financial Reconstruction (BIFR) under the provisions of SICA and direction had been issued on 15.3.1991 (Annexure P/1) for package of revival to which the financial institutions were also parties including the Haryana Financial Corporation.

3. The petitioner-company was granted sales tax deferment for five years from 1.4.1992 to 31.3.1997 along with various other reliefs as per letter dated 21.12.1992 (Annexure P/2) by the State and sales tax exemption to the tune of Rs.68 lacs was also granted.

4. A notice dated 4.5.1998 (Annexure P/6) was issued to the petitioner-company that it had violated the conditions contained in Rule 28-A of the Act and it was liable to pay the whole amount of tax exemption with interest. The petitioner had approached this Court in Civil Writ Petition No.6689 of 1998 challenging the said notice and the vires of the Rules. The said writ petition was disposed on 13.5.1998 (Annexure P/7) without going into question of vires with a direction to the petitioner-company to file reply to the show cause notice and the Assessing Authority would consider the matter after giving the petitioner company an opportunity of hearing. Subsequently, vide assessment order dated 16.3.2005 (Annexure P/8), the liability of the petitioner-company was assessed under the Central Sales Tax Act, 1956 to the tune of Rs.54,33,480/-.

5. The said order was challenged before this Court by filing Civil Writ Petition No.6688 of 1999 which was allowed on 31.3.2010 (Annexure P/10) without going into the vires of the Act and on the ground that inter State transfer of consignment was not transaction of sale. The State preferred Special Leave Petition No.25465 of 2011 against the said decision of the Division Bench of this Court which was allowed on 23.1.2013 (Annexure P/12) and the order of the Division Bench was set aside. Since the vires had never been adjudicated upon, the present writ petition has been filed on 8.4.2013.

6. Learned senior counsel for the petitioner-company has sought to argue the matter on the ground that once the petitioner-company was sick and it was only an inter State transfer the benefit of exemption could not have been withdrawn.

7. The State has placed reliance upon the rule to submit that since the petitioner-company had started taking transfer of consignments which was contrary to the statutory conditions, and the exemption was rightly withdrawn and that since 1998 multiple litigations had been raised to avoid the tax liability, The principal amount itself was Rs.68 lacs plus interest. The petitioner-company was well aware of the exemption granted and after having availed the benefit it could not challenge the conditions imposed upon it.

8. After hearing counsel for the parties, we are of the view that the present writ petition as such cannot be entertained once the matter has itself been decided interse the parties by the Apex Court itself. It is not disputed the initially the dispute was raised on 4.5.1998 (Annexure P/6) wherein a show cause notice was issued to the petitioner-company that they had dispatched goods on consignment basis amounting to Rs.95 lacs (approx.) and also consignment sales to the tune of Rs.4 crores (approx.) during the period of exemption. The petitioner-company had approached this Court and it had been given liberty to file reply to the show cause notice. Thereafter, liability was assessed vide assessment order dated 16.3.2005 (Annexure P/8) under the Central Sales Tax Act, 1956 to the tune of over Rs.54 lacs and exemption also was sought to be withdrawn and dealer was accordingly assessed as a normal dealer. The assessment order was sought to be challenged apart from challenging the vires of the Rules by filing Civil Writ Petition No.6688 of 1999 and also pleading that the company had been declared sick which was decided by this Court vide order dated 31.3.2010 (Annexure P/10). The decision of this Court dated 31.3.2010 in favour of the petitioner-company was set aside by the Apex Court vide order in **State of Haryana and another Vs. Rubber Reclaim Co. of India (2013) 14 SCC 763** by specifically noting that if there was a violation of any one of the conditions of the Rule, the sales tax authorities are at liberty to cancel the exemption certificate and call upon the assessee to make payment of the tax with interest. Further direction was issued to the assessing authority to pass fresh assessment order for the periods in dispute after affording opportunity of hearing to the assessee. The order withdrawing the exemption was accordingly upheld. The relevant observations read as under:-

> *"12. If there is a violation of anyone of the conditions stipulated in Sub Rule 11(i) and (ii), the sales tax authorities are at liberty to cancel the exemption certificate issued under the scheme and call upon the assessee to make payment of the exemption availed with interest thereon.*
>
> *13. Having noticed the relevant rules, we will revert back to the facts in the present case. The assessee-company had availed benefit of the sales tax exemption under the Exemption Scheme issued by the State Government. The Eligibility Certificate for sales tax exemption provides for certain conditions which requires to be complied by the assessee-company to take benefit of exemption under the Scheme. The condition no.7 of the Eligibility Certificate provides that the certificate can be cancelled if there is contravention of any condition mentioned in the certificate or Rule 28-A, after affording an opportunity to the party of being heard. In the show cause notice it is specifically alleged that the assessee had dispatched good on consignment basis during the assessment period 1995-1996, 1996-1997 and 1997-1998 and therefore the assessee has breached Rules 28-A of the Rules, 1975 and in particular Sub-rule 11 (a)(ii) of the Rules, 1975 which prescribes that the benefit of tax exemption shall be subject to the condition that the assessee having availed the benefit of tax exemption shall not make sales outside the State for next five years by way of transfer or consignment of goods manufactured by it. Since the assessee did not dispute the*

specific contravention pointed out by the assessing authority after cancelling the exemption certificate issued has quantified the tax liability and the interest payable thereon. The order so passed, in our view, is in consonance with the scheme of exemption notified by the State Government and also in accordance with the rules prescribed under Section 13B of the Act.

14. The High Court while allowing the petition filed by the assessee has proceeded on a wrong assumption, that, the assessing authority has levied tax on inter-state and on consignment transfer and accordingly has quashed the assessment order passed by the assessing authority. In view of our conclusion stated earlier, we cannot sustain the judgment and order passed by the High Court. Accordingly, we allow this appeal and set aside the impugned order.

15. We are informed by learned counsel for the parties that in the light of the judgment and order passed by the High Court, the assessing authority has completed the assessments for the period in question. Since we have set aside the judgment and order of the High Court, we direct the assessing authority to pass fresh assessment order for the periods in dispute after affording opportunity of hearing to the assessee."

9. A perusal of the above order of the Apex Court would go on to show that no liberty was granted to the petitioner-company to re-agitate the issue of the vires of the Rules which is now sought to be questioned by filing the present civil writ petition. We do not subscribe to the argument that issue regarding the vires of the Rules had never been adjudicated upon because it was open to the petitioner-company to seek liberty from the Apex Court to leave the said question open and to take permission to file a fresh petition or get the matter remanded. Rather in view of the observations of the Apex Court made above the issue in our opinion finally stands closed for all intents and purposes. Once the Civil Appeal has been allowed, the question of raising the issue afresh does not arise by challenging the vires for the second time. The State is well justified to argue that the matter has been delayed since 1998 and challenges have been laid to the show cause notice and the recovery of outstanding dues has been delayed by resorting to litigation. Accordingly, we are of the view the present writ petition in which amendment has also been sought by wanting to place on record the sales tax returns which has seriously been opposed by the State, in our opinion, would also be not relevant for deciding the issue in controversy, and would not help the court to adjudicate on the matter in controversy. Thus, the matter between the parties having been adjudicated upon by the Apex Court itself, the jurisdiction of this Court would be barred by the principle of constructive Res-Judicata in the peculiar facts and circumstances of the case. Reliance can be placed upon the observations made by the Apex Court in **M.Nagabhushana Vs. State of Karnataka (2011) 3 SCC 408 which read as under:-**

"12. The principles of Res Judicata are of universal application as it is based on two age old principles, namely, `interest reipublicae ut sit finis litium' which means that it is in the interest of the State that there should be an end to litigation and the other principle is `nemo debet his ve ari, si constet curiae quod sit pro un aet eademn cause' meaning thereby that no one ought to be vexed twice in a litigation if it appears to the Court that it is for one and the same cause. This doctrine of Res Judicata is common to all civilized system of jurisprudence to the extent that a judgment after a proper trial by a Court of competent jurisdiction should be regarded as final and conclusive determination of the questions litigated and should for ever set the controversy at rest.

13. That principle of finality of litigation is based on high principle of public policy. In the absence of such a principle great oppression might result under the colour and pretence of law in as much as there will be no end of litigation and a rich and malicious litigant will succeed in infinitely vexing his opponent by repetitive suits and

actions. This may compel the weaker party to relinquish his right. The doctrine of Res Judicata has been evolved to prevent such an anarchy. That is why it is perceived that the plea of Res Judicata is not a technical doctrine but a fundamental principle which sustains the Rule of Law in ensuring finality in litigation. This principle seeks to promote honesty and a fair administration of justice and to prevent abuse in the matter of accessing Court for agitating on issues which have become final between the parties."

10. Accordingly, the present writ petition is dismissed.

PUNJAB & HARYANA HIGH COURT

VATAP NO. 244 OF 2014

SHREE RATTAN JYOTI ELECTRODES INDUSTRIES
Vs.
STATE OF HARYANA

S.J.VAZIFDAR, ACTING CHIEF JUSTICE AND G.S. SANDHAWALIA, J

23rd April, 2015

HF ▶ Assessee- petitioner

EXEMPTION – ASSESSMENT – APPLICATION FOR RENEWAL OF EXEMPTION REJECTED – ASSESSMENTS FRAMED DURING PENDENCY OF APPEAL BEFORE ETC REGARDING RENEWAL APPLICATION – MATTER FINALLY REMANDED BY TRIBUNAL TO COMMISSIONER – APPEAL AGAINST ASSESSMENT ORDERS ALSO DISMISSED BY TRIBUNAL – RENEWAL ALLOWED BY COMMISSIONER SUBSEQUENT TO DISMISSAL OF APPEAL AGAINST ASSESSMENT ORDERS BY TRIBUNAL – APPEAL FILED BEFORE HIGH COURT PRAYING QUASHING OF ASSESSMENT ORDERS AS THE BASIS(REJECTION OF RENEWAL APPLICATION) ON WHICH THEY WERE FRAMED CEASED TO EXIST –ASSESSMENT ORDERED TO BE FRAMED AFRESH IN VIEW OF APPELLANT BEING EXEMPTED UNDER RULE 28B–APPEAL ALLOWED

The appellant was granted exemption u/r 28B of the HGST Rules from 1998 to 2015. The DETC rejected the renewal application for the year 1998 to 2003 against which an appeal was filed. During pendency of appeal before the ETC, the assessments were finalized. The matter of renewal of application for exemption was finally remanded to the commissioner by the Tribunal. While the matter was pending, the DETC dismissed the appeal against the assessment orders and the order was upheld by the Tribunal. Subsequently, in 2012, the Commissioner allowed renewal of application of exemption. The appellant has filed an appeal for quashing of assessment orders on the ground that the basis on which assessment order was passed and the basis on which appeals were dismissed have ceased to exist. Allowing the appeals, the matter is remanded to the assessing authority for framing fresh assessment in view of the appellant now being an exempted unit.

Present: Mr. Avneesh Jhingan, Advocate, for the appellant.
Ms. Mamta Singla Talwar, AAG, Haryana.

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S.J. VAZIFDAR, A.C.J.

1. These are appeals filed under Section 36 of the Haryana Value Added Tax Act, 2003 against the order dated 31.01.2012 of the Haryana Tax Tribunal dismissing the appellant's appeal against the order of the Joint Excise and Taxation Commissioner (Appeals), which in turn had dismissed the appeals against the assessment order for the assessment years 2002-03

and 2003-04. The appeals are admitted on the substantial question of law raised in para no. 12(ii) of the present appeal, which reads thus:

> *"(ii) whether in the facts and circumstances of the case, the Tribunal should have kept pending the consequential proceedings to await the outcome of appeals in the main case?"*

2. The impugned order would have to be set aside and the matter remanded in view of the events that transpired after the impugned order. The appellant was granted the benefits under Rule 28(B) of the Haryana General Sales Tax Rules, 1975 (in short 'the Rules') for the period 06.05.1998 to 05.05.2015 subject to a maximum amount of about ₹13.34 lakhs. However, on 07.03.2003, the DETC rejected the renewal application for the years 1998 to 2003. Applications for renewal are to be made each year. The appellant had challenged this order. However, pending the challenge, the assessments for the said years were finalized. The Excise and Taxation Commissioner dismissed the appellant's appeal against the order of the DETC dated 07.03.2003 rejecting the application for renewal of the exemption under Rule 28(B) of the Rules. The Tribunal set aside this order and remanded the same to the Excise and Taxation Commissioner. On 19.10.2009, while the matter was pending on remand, the DETC (Appeals) dismissed the appellant's appeals against the assessment orders. On 31.01.2012, the Tribunal dismissed the appeals against the assessment orders.

3. Subsequently, the Excise and Taxation Commissioner, by an order dated 22.03.2012, allowed the appeal and renewed the exemption under Rule 28(B) subject to completion of the formalities.

4. In the circumstances, the basis on which the assessment order was passed and the basis on which the appeals against the same were dismissed ceases to exist. In other words, the assessment orders have now to be finalized afresh on the basis that the appellant is an exempted unit under Rule 28(B) of the Rules.

5. The appeals are therefore, allowed. The impugned orders are quashed and are set aside. The matters are remanded to the Assessing Authority to pass fresh assessment orders.

PUNJAB & HARYANA HIGH COURT

CWP NO. 15695 OF 2014

CWP NO. 15706 OF 2014

SONY INDIA PVT. LTD.
Vs.
UNION TERRITORY OF CHANDIGARH AND ANOTHER

S.J.VAZIFDAR, ACTING CHIEF JUSTICE AND G.S. SANDHAWALIA, J

27th April, 2015

HF ▶ Assessee- Petitioner

ASSESSMENT – NOTICE – SCOPE OF SEC 29(4) OF PVAT ACT – FRAMING OF ASSESSMENT AFTER EXPIRY OF LIMITATION PERIOD OF THREE YEARS – NO PROPER NOTICE SERVED PRIOR THERETO AS REQUIRED – WRIT FILED – SERVICE OF INDIVIDUAL NOTICE FOR INVOKING POWERS CONSIDERED ESSENTIAL IN VIEW OF RULE 86 – ABSENCE OF INDIVIDUAL NOTICE RENDERS THE ASSESSMENT ORDER ILLEGAL – GENERAL NOTICES PUT UP ON WEBSITE HELD TO BE INSUFFICIENT – SEC 29 (4) OF PVAT ACT; RULE 86 OF PVAT RULES

The returns for the assessment years were filed on 19/11/08 and 20/11/09. The assessment should have been completed by 20.11.11 and 20.11.12 respectively. The best judgement assessment was completed after expiry of three years i.e. on 11.7.2014 in both cases. The assessee challenged the assessment orders on the grounds of improper notices issued u/s 29(4) of PVAT Act, 2005. It is held that as per Rule 86, individual notice is to be served for invoking powers. Absence of individual notice renders assessment orders illegal and void. In this case general notice was put on website which is considered in sufficient.

Case followed:

State of Punjab Vs M/s Olam Agro India Ltd. VAT AP No. 84 of 2013

Present: Mr. J.S. Sidhu, Advocate, for the petitioner.
Mr. Sanjeev Sharma, Sr. Advocate, with
Mr. Sanjiv Ghai, Advocate, for the respondents.

S.J. VAZIFDAR, A.C.J.

1. The petitioner has challenged notices issued under Section 29 (4) of the Punjab Value Added Tax Act, 2005 (as applicable to the U.T., Chandigarh) (in short 'the Act'). The returns in respect of the above writ petitions were filed on 19.11.2008 and 20.11.2009. The last dates for completion of the assessment under Section 29(4) were, therefore, 20.11.2011 and 20.11.2012 respectively. Admittedly, the completion of the best judgment assessment was done after the period of 3 years namely on 11.07.2014 in both the cases. Section 29(4) of the

Act reads thus:

> *"SECTION 29. ASSESSMENT OF TAX:*
>
> *(4) An assessment under sub-section (2) of sub-section (3), may be made within three years after the date when the annual statement was filed or due to be filed, whichever is later;*
>
> *PROVIDED THAT where circumstances so warrant, the Commissioner may, by an order in writing, allow assessment of a taxable person or a registered person after three years, but not later than six years from the date, when annual statement was filed or due to be filed by such person, whichever is later.*

2. The present cases are covered in favour of the petitioner by a judgment dated 20.08.2013 passed by a Division Bench of this Court in a group of matters, the first of which is ***VATAP No. 84 of 2013, State of Punjab vs. M/s. Olam Agro India Ltd.*** The Division Bench held that Rule 86 of the Rules does not envisage service of a general notice or by publication on the website of the department. The Division Bench held that the service of an individual notice is a *sine qua non* for invoking powers and the absence of such individual notice renders the assessment orders illegal and void.

3. Admittedly, in the present cases, individual notices were not given. Even in the present cases, general notices were put up on the website. In view of the judgment of the Division Bench, this is insufficient.

4. Rules are, therefore, made absolute in each of the petitions in terms of prayers (i) to (iv).

5. We are informed that there is a possibility of the Section being amended.

6. Needless to add that we express no opinion in the event of the same being done.

PUNJAB & HARYANA HIGH COURT

VATAP NO. 178 OF 2014
VATAP NO. 179 OF 2014

STEELCO INDIA
Vs.
STATE OF HARYANA

S.J.VAZIFDAR, ACTING CHIEF JUSTICE AND G.S. SANDHAWALIA, J

23rd April, 2015

HF ▶ Appellant – Assessee

CONDONATION OF DELAY – APPEAL – LIMITATION – CONDUCT OF COUNSEL – APPEALS AGAINST ASSESSMENT ORDERS FILED BEFORE FIRST APPELLATE AUTHORITY – ORDERS PASSED RECEIVED BY APPELLANT'S COUNSEL – SUBSEQUENT ACCIDENT OF COUNSEL AND UNDERGOING OF SURGERY LEADING TO DELAY IN FILING OF APPEAL BEFORE TRIBUNAL – RECOVERY PROCEEDINGS INITIATED – RESULTANTLY, APPEAL FILED ON APPELLANT'S INTIMATING COUNSEL – DISMISSAL OF APPEAL BY TRIBUNAL DUE TO DELAY IN FILING – DELAY CONDONED BY HIGH COURT FINDING FACTS MENTIONED AS SUFFICIENT CAUSE – IMPUGNED ORDERS SET ASIDE – APPEALS TO BE HEARD ON MERITS

The assessment orders were passed on 22.2.08, 23.03.09 and 23.02.08 respectively. The first appellate authority dismissed the appeals on 18.5.09, 15.3.10 and 18.5.09 respectively. The appeal was filed before Tribunal with a delay of 467, 183 and 426 days respectively. The Tribunal dismissed the appeal being barred by limitation. An appeal was filed before High Court and it was explained that the orders of the first appellate authority were received by the appellant's counsel. Subsequently, the counsel met with an accident. He underwent a surgery in September 2010 due to which he could not attend the office and file the appeal in time. The appellant came to know about the orders only when the recovery proceedings commenced. It was then that the appellant approached the counsel and got the appeals filed before Tribunal. The Hon'ble High Court has found this as a sufficient cause and condoned the delay in the interest of justice. The impugned orders are set aside and order to hear the appeals on merits is passed.

Present: Mr. Avneesh Jhingan, Advocate, for the appellants.
Ms. Mamta Singla Talwar, Assistant Advocate General, Haryana.

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S.J. VAZIFDAR, A.C.J.

1. The appeals are admitted on the following substantial questions of law raised in paragraph 11 in each of the appeals:

"(i) Whether in the facts and circumstances of the case, the Tribunal was justified in refusing to condone the delay which had occurred because of the conduct of the counsel?

(ii) Whether in the facts and circumstances of the case, the order of the Tribunal is sustainable in law dismissing the appeal as time barred especially when the affidavit of the counsel had been filed and no contrary evidence was brought on record by the department?

(iii) Whether in the facts and circumstances of the case, justice should be denied to the appellant because of the limitation even when the matter on merits squarely stands covered in favour of the dealer by the decisions of the Punjab and Haryana High Court?"

2.The appellants' appeals under the Haryana Value Added Tax Act, 2003 before the second appellate authority were dismissed on the ground of delay. The present appeals raise a common question arising out of common facts and are, therefore, disposed of by a common order and judgement.

3. In the above VATAPs1781792072014, the assessments orders were finalized on 22.02.2008, 23.03.2009 and 23.02.2008 respectively. The first appellate authority dismissed the appeals on 18.05.2009, 15.03.2010 and 18.05.2009 respectively. The delay in filing of the appeals before the Tribunal was of 467, 183 and 426 days respectively.

4. For instance, in VATAP2072014, the order of the first appellate authority dated 18.05.2009 was served on the appellant's counsel on 23.06.2009. Unfortunately, the counsel met with an accident on 15.07.2009. In September, 2010, he underwent a surgery. Therefore, the appeal was not filed in time as he was unable to attend the office. The appellant learnt about the orders only when the recovery proceedings commenced. The appellant thereafter approached its counsel and filed the appeal on 01.12.2010. The same counsel appeared in the other proceedings relating to the other two appeals as well. There is no reason why the appellants should face the drastic consequences of the dismissal of their appeals without the same being considered on merits. The above facts constituted more than sufficient reason for condoning the delay and hearing the appeals on merits.

5. The substantial questions of law are, therefore, decided in favour of the appellants. The impugned orders are quashed and set aside. The appeals shall be heard on merits.

6. No order as to costs.

PUNJAB & HARYANA HIGH COURT

CWP 24906 OF 2014

PERFECT MECHANICAL INDUSTRIES
Vs.
STATE OF HARYANA & OTHERS

S.J.VAZIFDAR, ACTING CHIEF JUSTICE AND G.S. SANDHAWALIA, J

12th May, 2015

HF ▶ Partly – Revenue and Partly Petitioner

REFUND – BANK GUARANTEE – INVOCATION – TAX AND INTEREST LEVIED ON ACCOUNT OF FAKE C FORMS PRODUCED – BANK GUARANTEE ENCASHED ON DISSMISSAL OF FIRST APPEAL – APPEAL BEFORE TRIBUNAL FILED THEREAFTER – WRIT FILED AGAINST ENCASHMENT ON BASIS OF NO PRIOR SERVICE OF NOTICE – REFUND CLAIMED ON ACCOUNT OF PENDENCY OF APPEAL BEFORE TRIBUNAL – HELD, CONSENT FOR ENCASHMENT GIVEN BY PETITIONER HIMSELF AS PER THE LETTER TO THE BANK – APPROACHING HIGH COURT ON GROUNDS OF NON SERVICE OF NOTICE OPINED TO BE DUE TO SUBSEQUENT CHANGE OF MIND AND FILING OF APPEAL BEFORE TRIBUNAL – CONDUCT OF PETITIONER KEPT IN VIEW WHILE ADJUDICATING – NO REFUND TO BE GRANTED TILL PENDENCY OF APPEAL – REFUND TO BE ALLOWED IN THE EVENT OF SUCCEEDING BEFORE TRIBUNAL.

STAY OF RECOVERY – SECURITY – PENALTY IMPOSED ON ACCOUNT OF FAKE C-FORMS PRODUCED – DISSMISSAL OF FIRST APPEAL- NOTICE ISSUED FOR RECOVERY – WRIT FILED FOR ISSUANCE OF DIRECTIONS TO RESPONDENTS AGAINST RECOVERY TILL PENDENCY OF APPEAL BEFORE TRIBUNAL – BENEFIT OF PROTECTION OF RECOVERY GRANTED TILL PENDENCY OF APPEAL IN THE EVENT OF FURNISHING OF ADEQUATE SECURITY WITHIN THE PERIOD FIXED – NO COERCIVE METHOD TO BE RESORTED TO BY THE STATE TILL THEN – WRIT DISPOSED OF.

An assessment order was passed and an additional demand was created due to non production of the declaration forms at the time of assessment. The said forms were thereafter produced but were found ingenuine. Accordingly tax an interest were imposed alongwith penalty under Section 38 r/w Section 9(2) of the CST Act. An appeal was filed before the First Appellate Authority after furnishing bank guarantee for tax and interest element. The appeal was dismissed and bank guarantee was enchased against which the writ is filed. The petitioner has contended that no prior intimation was given to him before encashment and that the amount should be refunded as the appeal regarding the matter is pending before Tribunal. The High Court has observed that as per the letter addressed to bank by the petitioner, the latter has himself given consent for the encashment. It is opined that it was an after thought that the petitioner approach this court after dismissal of first appeal on the ground that since he had filed an appeal after dismissal of first appeal the amount should be refunded to him and it was wrongly encashed without prior notice. No refund is granted. In case the petitioner succeeds in appeal before Tribunal, the State shall refund the amount.

Also, the petitioner has prayed for the issuance of direction to the respondents no to enforce the recovery of penalty during pendency of appeal before Tribunal which is not functional at present. The petitioner is granted the benefit of protection of recovery for the amount in dispute during the pendency of appeal provided adequate security is furnish to the satisfaction of Assessing Authority u/s 33(5) of the Act within a period of 4 weeks. The writ is disposed of.

Present: Sandeep Goyal, Advocate, for the petitioner.
Ms.Mamta Singla Talwar, AAG, Haryana, for the respondents

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G.S.SANDHAWALIA J.

1. The petitioner, who is a proprietorship concern, has filed the present writ petition, for issuance of direction to the respondents not to enforce the recovery of penalty imposed under Section 9(2) of the Central Sales Tax Act, 1956 (for short, the 'CST Act') read with Section 38 of the Haryana Value Added Tax Act, 2003 (for short, the 'VAT Act'), during the pendency of the appeal before the Haryana Tax Tribunal, which is not functional at present. An additional prayer has also been made to refund the amount of tax and interest to the tune of ₹1,46,00,000/, which has been recovered by encashing the bank guarantee in terms of Section 35(5) of the VAT Act, without any intimation to the petitioner.

2. Counsel for the petitioner has vehemently submitted that the first appeal of the petitioner was dismissed on 19.11.2014 (Annexure P3) by the First Appellate Authority, namely, the Joint Excise & Taxation Commissioner and the order was supplied on 24.11.2014. The bank guarantee which had been submitted in pursuance of the liability created vide order dated 05.05.2014 (Annexure P2) was wrongfully sought to be encashed on 24.11.2014, without giving any prior intimation as per the requirement of Rule 70(3) of the Haryana VAT Rules, 2003 and therefore, it is submitted that the amount should be refunded during the pendency of the appeal which he has filed before the Tribunal on 02.12.2014, against the order of the First Appellate Authority.

3. Counsel for the State has seriously opposed the said request, in the present facts and circumstances, which, *prima facie,* we find very reasonable, keeping in view the conduct of the petitioner, as such.

4. The case of the petitioner, admittedly, is that an assessment order was passed by the assessing authority on 05.12.2013 and an additional demand of ₹72,84,261/was created due to the nonproduction of the declaration forms, i.e., C- Forms, at the time of assessment. The said forms were, thereafter, produced to the tune of ₹68,076,501/and the demand was, thus, reduced to ₹1,36,228/, which was paid by the petitioner. The alleged C-Forms, supplied subsequently, were alleged to be in respect of the goods supplied to the vehicle factory, Jabalpur, a Government of India unit, manufacturing Defence Vehicles and on enquiry, it was found that the same were not genuine. Accordingly, vide order dated 05.05.2014, tax of ₹1,46,53,414/was imposed along with interest upon the petitioner along with penalty under Section 38 read with Section 9(2) of the CST Act, totalling to the tune of ₹3,66,33,535/.

5. The petitioner preferred an appeal before the First Appellate Authority, which asked for furnishing bank guarantee for the tax and interest element and eventually, the appeal was dismissed on 19.11.2014, in pursuance to which, the bank guarantee was encashed on 24.11.2014, against which, the petitioner is, now, aggrieved for not been given prior intimation before encashing.

6. A perusal of the written statement, filed by the State, would go on to show that the bank guarantee was expiring on 29.11.2014 and in the absence of any stay, the same was got

encashed on account of only a period of 45 days remaining with the respondents to take action, in the peculiar facts and circumstances, to safeguard the interest of the Revenue. It is also pertinent to mention that the bank, admittedly, informed the petitioner at that point of time, on 24.11.2014 itself regarding the demand of the unconditional invocation of the Assessing Authority cum Excise & Taxation Officer. The petitioner, at that stage, admittedly, also gave his concurrence to the encashment of the bank guarantee, as per letter dated 24.11.2014 (Annexure R2), which was addressed to the bank. The same reads as under:

> *"Dear sir You are issued a bank guarantee No.003GT01142460015 in favour of Assessing AuthoritycumExcise and Taxation officer Sector12, Faridabad (East) for Rs.1,46,00,000/(Rs.One Crore Fourty Six Lakh Only) Against FDR no50300053177422 and 503000053108098 FDR amount for Rs.1,00,00,000/. You are authorized to debit balance amount in account no50200003880781. Please cash the Bank Guarantee."*

7. A further perusal of the recovery notice under the Land Recovery Act dated 24.11.2014 (Annexure R1) would go on to show that recovery was only made regarding the bank guarantee which has already been done. In such circumstances, once the petitioner himself has given his consent for the recovery of the tax amount along with interest, in view of being unsuccessful in appeal, we are of the opinion that subsequently, the petitioner had a change of heart and has approached this Court on the ground that since he had filed the appeal thereafter, the amount should be refunded to him and it was wrongly encashed, without giving him prior notice.

8. In such circumstances, we are not inclined to grant any relief for the refund of the amount, during the pendency of the appeal. In case the petitioner is successful, he will be entitled to the said amount which the State has encashed. Needless to say anything said herein is only for the purpose of deciding the present writ petition and the appeal of the petitioner will be decided on its own merits.

9. The only issue, thus, remains is that in pursuance of notices issued (Annexure P5), whether the balance penalty amount is liable to be recovered during the pendency of the appeal before the Tribunal, which is, at present, nonfunctional. Counsel for the petitioner has submitted that the petitioner shall furnish adequate security, to the satisfaction of the Assessing Authority, in the manner prescribed under Section 33(5) of the VAT Act.

10. Accordingly, the petitioner is granted the benefit of protection of recovery of the amount in dispute, during the pendency of the appeal, subject to the Assessing Authority being satisfied regarding the furnishing of adequate security, as prescribed under Section 33(5) of the VAT Act, within a period of 4 weeks from today. In the meanwhile, the recovery of the balance amount would not be made by resorting to any coercive method by the State.

11. Writ petition is, accordingly, disposed of.

PUNJAB VAT TRIBUNAL

APPEAL NO. 704 OF 2013

C.L. JAIN WOOLLEN MILLS PVT. LTD
Vs.
STATE OF PUNJAB

JUSTICE A.N. JINDAL, (RETD.)
Chairman

11th April, 2015

HF ▶ Assessee- appellant

PRE- DEPOSIT – APPEAL - ENTERTAINMENT OF – DISMISSAL OF APPEAL BY FIRST APPELLATE AUTHORITY FOR NON COMPLIANCE OF SEC 62(5) – TAX OUGHT TO HAVE BEEN DEPOSITED AS PER AMENDED SEC 62(5) IN VIEW OF ORDINANCE ISSUED IN 2011 AS ALLEGED BY DEPARTMENT – APPEAL FILED BEFORE TRIBUNAL - PLEA REGARDING THERE BEING NO AWARENESS OF THE CONTENTS OF ORDINANCE IT BEING PASSED ON THE SAME DATE AS FILING OF FIRST APPEAL ACCEPTED BY COURT – HELD, AMENDED PROVISION NOT TO APPLY IN PRESENT CASE – TAX TO BE DEPOSITED AS PER JUDGEMENT PASSED IN EARLIER CASE – CASE REMITTED BACK TO DETC TO ENTERTAIN APPEAL PROVIDED TAX DEPOSITED AS PER THE CONDITION MENTIONED – SEC 62(5) OF PVAT ACT

The appeal before first appellate authority was dismissed for non compliance of sec 62(5) of PVAT Act. An appeal was filed before Tribunal contending that the appeal before DETC was filed on the same day as ordinance regarding the amendment of sec 62 was issued which could not have been known on the day of filing itself. The appeal was accepted holding that the amended provision would not apply in this case. The appellant should deposit tax as per the judgement passed in the case of Ahluwalia Contracts. The case is remitted back to the DETC to entertain the appeal on merits in the event of tax being deposited as per the aforesaid judgement.

Case followed:

Ahluwalia Contracts v/s The state of Punjab (37 PHT 53) *(P&H)*

Editorial Note: This is for the information of our readers that as per judgement passed in the case of Ahluwalia Contracts , it is held that if the petitioner has paid more than 25% of the Tax, Interest and Penalty, the view taken by the appellate authority that 25% should be worked out on the additional demand, cannot be accepted.

Ordinance reproduced:

Notification No. 33-Leg/2011 *dated17.8.2011*

Amendments in section 62 of PVAT Act – Punjab VAT 4th Amendment Ordinance, 2011

The following Ordinance of the Governor of Punjab promulgated under clause (1) of article 213 of the Constitution of India on the 16th August, 2011 is hereby published for general information:

The Punjab Value Added Tax (Fourth Amendment) Ordinance, 2011

(Punjab Ordinance No. 10 of 2011)
An
Ordinance

Amendment in section 62 of Punjab Act 8 of 2005 *– In the principal Act, in section 62, in sub-section (5) for the words "total amount of tax", the words "total amount of additional demand created" shall be substituted.*

Present: Mr. K.L. Goyal, Sr. Advocate alongwith
Mr. Rohit Gupta, Advocate counsel for the appellant.
Mrs. Sudeepti Sharma, Deputy Advocate General for the State.

JUSTICE A.N. JINDAL,(RETD.) CHAIRMAN

1. This is an appeal against the order dated 25.09.2013 passed by the Deputy Excise and taxation Commissioner (A) Ludhiana Division, Ludhiana dismissing the appeal of the appellant on the ground of non-compliance of section 62(5) of the Punjab Value Added Tax Act, 2005.

2. Arguments heard. The appeal was preferred before the Deputy Excise and Taxation Commissioner on 17.8.2011 i.e. on the day the ordinance regarding amendment of section 62(5) of the Act, 2005 was issued. Therefore, the appellant was not supposed to know about the ordinance and the contents of the amendment on the day he filed the appeal. Consequently, the amended provision u/s 62(5) of the Act would not apply in this case. Therefore, he is required to deposit the tax in accordance with the judgment delivered in case of Ahluwalia contracts vs The State of Punjab 37 PHT 53.

3. Accordingly, this appeal is accepted and the case is remitted back to the Deputy Excise and Taxation Commissioner to examine whether the tax has been deposited in accordance with the aforesaid judgment. If, it has been so done then Deputy Excise and taxation Commissioner would entertain and hear the appeal on merits. The parties are directed to appear before the DETC on 13.7.2015.

4. Pronounced in the open Court.

PUNJAB VAT TRIBUNAL

APPEAL NO. 689 OF 2014

R.S. INTERNATIONAL
Vs.
STATE OF PUNJAB

JUSTICE A.N. JINDAL, (RETD.)
Chairman

11th April, 2015

HF ▶ Assessee- appellant

APPEAL – ENTERTAINMENT OF – PREDEPOSIT – INPUT TAX CREDIT – PROOF OF ADJUSTED AMOUNT - APPEAL FILED BEFORE FIRST APPELLATE AUTHORITY – PROOF OF REVERSAL OF ITC AVAILABLE TO APPELLANT IN LIEU OF PAYMENT TOWARDS 25% OF ADDITIONAL DEMAND NOT SUBMITTED IN TIME – DISMISSAL OF APPEAL FOR NON COMPLIANCE OF SEC 62(5) OF THE ACT – APPEAL FILED BEFORE TRIBUNAL – APPELLANT READY TO PRODUCE REQUISITE DOCUMENTS AS PROOF OF THE AMOUNT ADJUSTED TOWARDS PAYMENT OF PREDEPOSIT– APPEAL ACCEPTED – DETC DIRECTED TO VERIFY DOCUMENTS PRODUCED AND HEAR APPEAL ON MERITS AFTER BALANCE, IF ANY, PAID BY APPELLANT – SEC 62(5) OF THE PVAT ACT, 2005

An appeal was filed before the First Appellate Authority which was dismissed for non – compliance of sec 62(5) of the Act. An appeal was filed before Tribunal alleging that since there was ITC amount available to the appellant, he had reversed that amount towards payment of 25% of the penalty amount in the return for the second quarter 2012-13. He had requested time of one hour to give proof that he has reversed ITC. But the appeal was dismissed by the Ld. DETC as he could not appear within the time taken. Now the appellant was ready to give the proof of the requisite documents before Tribunal which could not be earlier produced. The appeal is allowed with a direction to the Ld.DETC to hear the appeal on merits after verifying the documents so produced on record and deciding the entitlement of the appellant to have refund and adjusting the amount towards payment of additional demand of 25%. The balance, if any, would have to be paid by the appellant for hearing of appeal. The appeal is allowed.

Present: Mr. K.L. Goyal, Sr. Advocate alongwith
Mr. Rohit Gupta, Advocate counsel for the appellant.
Mrs. Sudeepti Sharma, Deputy Advocate General for the State.

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JUSTICE A.N. JINDAL,(RETD.) CHAIRMAN

1. This is an appeal against the order dated 12.7.2013 passed by the DETC(A), Patiala Division Patiala dismissing the appeal of the appellant for non-deposit of 25% of the additional demand.

2. The counsel for the appellant has placed on record cash security receipt of Rs. 40,518 on account of advance penalty and has submitted that the penalty order was later on set-aside. It is also submitted that the appellant besides this refund of Rs. 40,518/-, he has been awarded reversal of Rs. 11,100/-. The amount of these items would be suffice to meet with the requirement of section 62(5) of the Act. He has further undertaken to deposit the balance, if any, towards 25% of the additional demand, if the aforesaid amounts are adjusted. In the aforesaid circumstances, he appellant has requested for entertaining his appeal and decide the same on merits.

3.I have gone through the order passed by the first appellate authority which reveals that similar argument was raised before him. The relevant part of the order under appeal reads as under:-

> *"Shri Sushil Jindal, Advocate/Counsel for the appellant and Shri L.M. Sharma, ETI, ICC, Shambu (Import) have appeared from the department with record file on 12.7.2013. The ld. Counsel stated that the ITC claim equal to 25% of penalty amount has been pending in district office. So he has requested to hear the appeal on merits. He argued that he has utilized balance of his ITC for the payment of the 25% of the penalty amount. He has reversed this amount in the return for the second quarter 2012-13. He has requested for the time of one hour to give the proof that he has reversed ITC to the tune of 25% of the penalty in his VAT-XX as no VAXX or any proof has been produced so far.*
>
> *On 12.7.2013 (afternoon) Shri L.M. Sharma, ETI has appeared from the Department alongwith the file and no body appeared from the appellant deposit being called thrice at different intervals from 4 to 5 p.m. I am left with no alternative then to presume that 25% of additional demand has not been got deposited and appeal is liable for rejection. So the appeal is dismissed"*

4.The counsel for the appellant has further submitted that since due to paueity of time, he could not produce the documents before the DETC, therefore, his appeal was dismissed, but now he is in possession of all the required documents and he is ready to produce the same having heard the rival contentions, I am of the view that it would be expendient in the interest of justice to provide an opportunity to the appellant of being heard on merits. The appeal could not be turned down nearly heard on ground that he could not produce the proof of deposit/adjustment of 25% to be deposited against the additional demand particularly when he has now produced the with regard to adjustment of the amount against the 25% of the additional demand. Therefore, it would be appropriate to provide him to satisfy him about the compliance of section 62(5) of the Act, 2005. Counsel has further undertaken that if after adjustment in the aforesaid manner, any balance out of aforesaid 25% of the additional demand is found due, then the appellant would deposit the same before the DETC.

5. Resultantly, this appeal is accepted, impugned order is set-aside and the DETC is directed to take the documents on record and verify regarding the entitlement of the appellant to have refund and then adjust the same against the additional demand of 25%. If any balance still remains after the aforesaid adjustments, then the appellant would deposit the same and after making the satisfaction about the same with regard to deposit of 25% of additional demand in the aforesaid manner, he would entertain and hear the appeal on merits.

6. The appellant is directed to appear before the DETC on 30.6.2015.

NOTIFICATION

DRAFT NOTIFICATION CHANDIGARH ADMINISTRATION

CHANDIGARH ADMINISTRATION
EXCISE & TAXATION DEPARTMENT
DRAFT NOTIFICATION
8th May, 2015

No. E&T-ETO (Ref.)-2015/1185. The following draft of the amendment which the Administrator, Union Territory, Chandigarh, in exercise of the powers conferred by sub-section (3) of the Section 8 of the Punjab Value Added Tax Act, 2005 (Punjab Act No. 8 of 2005), as extended to the Union Territory, Chandigarh and all other powers enabling him in this behalf, proposal to revise Schedule 'E' appended to the said Act is hereby published for the information of persons likely to be affected thereby.

Notice is hereby given that the said draft amendment will be taken into consideration by the Chandigarh Administration on or after the expiry of 15 days from the date of its publication in the official gazette together with objections or suggestions, if any, which may be received by the Excise and Taxation Commissioner, Union Territory, Chandigarh from any person with respect to the draft amendment before the expiry of the period so specified:-

DRAFT AMENDMENT

In the said Schedule 'E', at Serial No. 8 and the entries relating thereto, the following rate of tax shall be added, namely;

'8. Diesel 12.225%"

Sarvjit Singh, IAS,
Secretary Excise & Taxation,
Chandigarh Administration.

NOTIFICATION

NOTIFICATION ON DEISEL

PART III

GOVERNMENT OF PUNJAB

DEPARTMENT OF EXCISE AND TAXATION

(EXCISE AND TAXATION-II BRANCH)

NOTIFICATION

The 15th April, 2015

No. G.S.R. 26/P.A.8/2005/S.70/Amd.(55)/2015.-In exercise of powers conferred by sub section (1) of section 70 of Punjab Value Added Tax Act, 2005 (Punjab Act No. 8 of 2005), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules further to amend the Punjab Value Added Tax Rules, 2005, namely:-

RULES

1. (1) These Rules may be called the Punjab Value Added Tax (Amendment) Rules, 2015.

(2) They shall come into force on and with effect from the date of their publication in the Official Gazetee.

2. In the Punjab Value Added Tax Rules, 2005, for rule 47, the following rule shall be substituted, namely:-

"47. Manner of assessment.-(1) The Commissioner, shall formulate the criteria for making of assessment or provisional assessment, as the case may be, of a person or class of persons, with the approval of the Government from time to time, as it considers expedient.

(2) No Designated officer shall take up any case falling under sub-section (2) of section 29 or otherwise for making of assessment or provisional assessment, as the case may be, without the prior approval of the Commissioner.

(3) The cases to be taken up for assessment or provisional assessment, as the case may be, during a financial year, shall be displayed on the website of the Department.

(4) A notice to the person concerned shall be issued, for assessment or provisional assessment, as the case may be, clearly stating the grounds for the proposed assessment, period for which such assessment is to be made, record to be produced by him, date, time and place, for conduct of such assessment:

Provided that the period of notice, shall not be less than ten working days in any case, for production of relevant record so specified in the said notice.

(5) A person, upon whom a notice has been served under sub-rule (4), shall produce all relevant documents, on the specified date and time, alongwith his objections in writing if any, alongwith sufficient evidence in support thereof."

D.P. REDDY
Financial Commissioner Taxation and
Secretary to Government of Punjab,
Department of Excise and Taxation.

SGA
LAW OFFICES

NEWS OF YOUR INTEREST

LS CLEARS GST BILL, PAVES WAY FOR UNIFORM TAX REGIME

The BJP government today crossed its first milestone on the road to economic reforms with the Lok Sabha passing a historic Bill to subsume all existing central and state taxes under a single goods and services tax (GST) with a potential to reduce corruption and boost trade.

The Constitution (One Hundred and Twenty-Second) Amendment Bill 2014, popularly called the GST Act, was required to be passed with the majority of the total membership of the House — more than 272 votes in a 542-member House — and the majority of not less than two-thirds of the members present and voting.

It was carried with 352 votes in favour and 37 against with the principal Opposition Congress walking out before the vote, signalling a tough road ahead for GST in the RS where the BJP is heavily outnumbered.

The Bill that was passed today includes eight government amendments moved by Finance Minister Arun Jaitley, who described GST as a system of indirect tax with the least harassment and evasion.

Allaying fears of the Congress, AIADMK, Shiv Sena and CPM that states would lose taxes in the new system, Jaitley urged MPs to shed their "fear of the unknown" saying he didn't foresee states losing revenue.

"With this law, the country — one-sixth of the world's population — will become a common market. Besides being the destination tax, GST would involve uniform taxation throughout India; seamless transfer of goods and services; fillip to trade and end of tax on tax," Jaitley said as PM Narendra Modi gave the voting on his government's first major constitutional amendment Bill a miss as did ministers Sushma Swaraj, Smriti Irani and Venkaiah Naidu, much to Opposition's angst.

Presently, layers of taxes are levied on goods and services -- there is tax on raw material, then excise duty, entry tax at state level and VAT.

"The regime of tax on tax made goods costlier. We want a system which brings inflation down and boosts India's GDP," Jaitley said amid projections of 2 per cent gain in GDP growth with GST roll-out.

The roll-out is planned by April 1, 2016 but only after the Congress-dominated Rajya Sabha passes the Bill followed by half of India's 29 states.

On Congress' "doublespeak" as articulated by former minister Veerappa Moily who said his party favoured the GST but wanted it referred to a parliamentary committee, the Finance Minister had objections.

"The Congress must take an honest position or whether or not it wants the GST. I have agreed to suggestions of the parliamentary committee you also mentioned in your comments. Why do you still want the Bill sent back to the panel whose recommendations I have already incorporated? The Bill is not a dancing instrument that it will jump from panel to panel. What

is this 'kabhi haan kabhi naa'…It will be erroneous to see this Bill as a UPA versus NDA issue. It is a Centre-state issue," Jaitley said, leaving a smile on Congress president Sonia Gandhi's face moments before she walked out.

For RSP's NK Premachandran, who had genuine concerns over the law giving the President the power to amend the Constitution, Jaitley had generous praise. "Premachandran does his homework very well. But I assure him that this law gives the President the power only to remove difficulties as many other laws do including the 44th Constitutional Amendment which nullified the 42nd amendment of the Emergency time," Jaitley said.

The Bill came through after the government agreed to exclude potable alcohol and petroleum from its ambit after states said they wanted to retain these revenue-earning items. Petroleum won't be covered by GST until the GST Council approves such coverage with 3/4th vote -- 1/3rd of the Centre and 2/3rd of the states.

Courtesy: The Tribune
6th May, 2015

SGA
LAW OFFICES

NEWS OF YOUR INTEREST

JAITLEY SLAMS CONG FOR OPPOSING GST BIL; ACCUSES IT OF STALLING GROWTH

Finance Minister Arun Jaitley on Saturday attacked the Congress for their opposition to the GST Bill and accused them of them of stalling economic growth.

"Some people, while they were in the government, were a drag on the economy and aspire for the same even in Opposition," Jaitley said referring to the Congress, without naming it.

He said most Chief Ministers were in favour of the new Bill, which he claimed would herald the economic integration of the nation. "There are some people working for putting obstacles on growth and hence are stopping the GST Bill as well," Jaitley said while speaking at a function here this evening.

"Almost all the CMs are in favour of GST, even the Opposition is in its favour. They (Congress) have no numbers to stop it in Parliament and hence, they adopt a new strategy of disrupting the working of Parliament during the three-day -extension adopted for passing the GST Bill."

Jaitley said the GST would make the entire country one market. *"There will be one uniform market with a seamless transfer of goods and services."*

The government intends to implement the indirect new tax regime by April 1, 2016.

The Lok Sabha, where the ruling BJP-led NDA has comfortable majority, passed the GST Bill last Thursday.

The government has extended the Budget session by three days in its bid to get this crucial legislation and also the new Land Bill passed in the Upper House, where NDA, hopes to notch up numbers despite being negligible presence.

The Congress wants the Bill to be referred to Select Committee.

Launching three new social security schemes here as part of their national rollout, Jaitley said the GST would benefit producing states like Maharashtra.

"The service tax collected from the financial capital goes to the Centre and people have been complaining for not getting their due. Now, some portion will also come back to Maharashtra (under GST regime)," the Minister said.

On economic growth, he said the country has capacity to expand in double-digits.

"Last year, the economy grew 7-7.5 per cent and will grow faster this year, but we aren't happy with this because we are capable of double-digit growth," he said. —PTI

Courtesy: The Tribune
9th May, 2015

SGA
LAW OFFICES

NEWS OF YOUR INTEREST

PUNJAB PANEL FOR 4% ENTRY TAX ON TRANSFORMER INDUSTRY

The Punjab advisory committee on trade and industrial affairs, headed by chief parliamentary secretaries Saroop Chand Singla and NK Sharma, on Thursday recommended to the state government to impose 4% entry tax on the transformer industry to safeguard the interests of local traders.

The committee has also recommended to lower the tax on the processing of mustard, cotton and other oilseeds from 6% to 4% and to impose 2% entry tax to give a boost to local traders in this sector.

The committee also resolved and recommended to the government to approve the fresh list of agricultural tools recommend by Punjab Agricultural University for tax exemptions to benefit the formers, a spokesman said here.

These decisions were taken at the committee's meeting here that was also attended by representatives of trade associations and industrialists of various sectors.

It was observed at the meeting that the inflow of raw material from other states to Punjab was resulting in loss to local traders as well as to the state exchequer.

On the demand to abolish advance tax on PVC manufacturing in Dhuri, a committee was formed to address the issue at the earliest in consultation with local traders.

Another committee was formed to moot a proposal of declaring sports, hosiery and bicycle industries as VAT (value-added tax)-free. Additional excise commissioner Amrik Singh, Satish Dhanda and Madan Lal Bagga comprise this committee that would listen to grievances and suggestions of Ludhiana traders in this regard, the spokesman said.

Courtesy: Hindustan Times
15th May, 2015