

(2013) 04 P&H CK 0191

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 23439 of 2012

National Sales Corporation

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: April 10, 2013

Citation: (2013) 65 VST 83

Hon'ble Judges: Ritu Bahri, J; Hemant Gupta, J

Bench: Division Bench

Advocate: C.M. Munjal, for the Appellant; Radhika Suri, Additional Advocate-General, Punjab, for the Respondent

Judgement

Hemant Gupta, J.

Challenge in the present petition is to a show-cause notice dated September 5, 2012 (P8) whereby the assessment under the Punjab Value Added Tax Act, 2005 (for short, "the Act") for the year 2007-08 was proposed to be completed after giving an opportunity of hearing to the petitioner. The stand of the petitioner is that the assessment has been completed and that there is no basis for issuance of show-cause notice (P8). In the reply, it has been stated that a notice dated April 29, 2011 (P5) was issued to finalize the assessment of the VAT returns for the years 2005-06, 2006-07 and 2007-08, i.e., within a period of three years from the end of financial year, in which returns was required to be filed. It is pointed out that the assessment for the years 2005-06 and 2006-07 were completed on July 6, 2011, but the assessment for the year 2007-08 could not be completed as the Assessing Officer was transferred.

2. Ms. Suri, learned Additional Advocate-General, Punjab has further pointed out that in terms of proviso to section 29(4) of the Act, the assessment can be framed but not later than six years from the date, when annual return was filed or due to be filed by the end of the financial year but after permission of Commissioner in writing. Therefore, the respondents have a right to complete the assessment even at this stage subject to fulfilment of the condition mentioned in the statute.

3. We have heard learned counsel for the parties and find that as on today there is no permission of the Commissioner in writing to frame the assessment within six years from the end of financial year in which the return was required to be filed. Therefore, in the absence of such permission, the VAT return for the year 2007-08 filed by the petitioner cannot be subject-matter of further assessment. Consequently, we allow the present writ petition and quash the notice dated April 29, 2011 (P5) and notice dated September 5, 2012 (P8) to the extent it relate to assessment year 2007-08 subject to an order, if any, by the Commissioner to frame the assessment within extended period of limitation in terms of section 29(4) of the Act.