

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A.No.____/2014 in Petition(s) for Special Leave to Appeal (Civil)
No(s).12472/2010

(From the judgement and order dated 20/01/2010 in CWP No.11100/2005 of the
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

BHAGWANPURA SUGAR MILLS

Petitioner(s)

VERSUS

STATE OF PUNJAB & ANR.

Respondent(s)

I.A.NO. /2014 in S.L.P.(C)No.12911/2010
I.A.NO. /2014 in S.L.P.(C)No.13008/2010
I.A.NO. /2014 in S.L.P.(C)No.17418/2010
I.A.NO. /2014 in S.L.P.(C)No.17420/2010
I.A.NO. /2014 in S.L.P.(C)No.17428/2010
I.A.NO. /2014 in S.L.P.(C)No.17473/2010
I.A.NO. /2014 in S.L.P.(C)No.17539/2010
I.A.NO. /2014 in S.L.P.(C)No.17546/2010
I.A.NO. /2014 in S.L.P.(C)No.17547/2010
I.A.NO. /2014 in S.L.P.(C)No.17548/2010
I.A.NO. /2014 in S.L.P.(C)No.17551/2010
I.A.NO. /2014 in S.L.P.(C)No.17565/2010
I.A.NO. /2014 in S.L.P.(C)No.17585/2010
I.A.NO. /2014 in S.L.P.(C)No.17592/2010
I.A.NO. /2014 in S.L.P.(C)No.19740/2010
I.A.NO. /2014 in S.L.P.(C)No.17623/2010
I.A.NO. /2014 in S.L.P.(C)No.17627/2010
I.A.NO. /2014 in S.L.P.(C)No.17641/2010
I.A.NO. /2014 in S.L.P.(C)No.17644/2010
I.A.NO. /2014 in S.L.P.(C)No.17651/2010
I.A.NO. /2014 in S.L.P.(C)No.17656/2010
I.A.NO. /2014 in S.L.P.(C)No.17666/2010
I.A.NO. /2014 in S.L.P.(C)No.17669/2010
I.A.NO. /2014 in S.L.P.(C)No.17686/2010
I.A.NO. /2014 in S.L.P.(C)No.20411/2010
I.A.NO. /2014 in S.L.P.(C)No.20703/2010
I.A.NO. /2014 in S.L.P.(C)No.12415/2010
I.A.NO. /2014 in S.L.P.(C)No.17801/2010
I.A.NO. /2014 in S.L.P.(C)No.20702/2010

Date: 10/02/2014 These applns. were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Dr.Abhishek Singhvi, Sr.Adv.
Mr.R.R.David, Adv.
Mr.Chitranshu Sinha, Adv.
Mr.Febim Mathew, Adv.
Ms. Kamaldeep Gulati,Adv.

For Respondent(s) Mr.Nikhil Nayyar, AAG
Mr. Jagjit Singh Chhabra,Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A.Nos. /14 in S.L.P.(C)Nos. 12415, 17641, 17420, 17801, 20411, 20702 and 20703/2010:

These Interlocutory Applications are filed by the applicant(s)/petitioner(s) for recalling of the order passed on 29.08.2013 in Special Leave Petition (C) No. 12415 of 2010 and to pass similar order passed in Special Leave Petition (C) No.10324 of 2010.

It is pertinent to mention here that by our order dated 29.08.2013, we had dismissed Special Leave Petition (C) No. 12415 of 2010 and connected matters.

After going through the application and prayer made therein, we are of the opinion that the request of the applicants/petitioners appears to be reasonable and needs to be accepted. Accordingly, the same is granted.

The petitioners in Special Leave Petitions (C) Nos.12415, 17641, 17420, 17801, 20411 and 20703 of 2010, had called in question the assessment orders passed by the Assessing Authority before the High Court.

The High Court without relegating the petitioner to first exhaust the alternative remedy available to them under the provisions of the Punjab General Sales Tax Act, 1948 (for short, "the Act") has dismissed the writ petitions. Aggrieved by the orders so passed by the High Court the applicants/ petitioners are before us in these special leave petitions.

Since the applicants/petitioners were calling in question the assessment order passed by the Assessing Authority, in our opinion, the applicants/petitioners should first approach the First Appellate Authority by filing appropriate petitions.

Accordingly, we allow the Special Leave Petitions and set aside the impugned judgment and order qua the petitioners. We reserve liberty to the applicants/ petitioners, if they so desires, to question the correctness or otherwise of the assessment order passed by the Assessing Authority for the relevant assessment years within a month's time from today.

If such petitions are filed within the time granted by this Court, the Appellate Authority shall consider and decide the same as early as possible in accordance with law without reference to the period of limitation.

All the contentions of both the parties are kept open.
I.A.Nos. /14 in S.L.P.(C)Nos.13008 and 12472 of 2010:

The applicants/ petitioners in Special Leave Petition (C) Nos. 13008 and 12472 of 2010 had challenged the assessment order passed by the Assessing Officer before the Appellate Authority, who by its order dated 10.01.2001 remanded the matter back to the Assessing Officer. The applicants/ petitioners thereafter, called in question the assessment orders directly before the High Court without exhausting the alternate remedy provided under the Act.

The High Court without relegating the petitioner to first exhaust the alternative remedy available to them under the provisions of the Act has dismissed the writ petitions. Aggrieved by the orders so passed by the High Court the applicants/ petitioners are before us in these special leave petitions.

Since the applicants/petitioners are calling in question the assessment order passed by the Assessing Authority, in our opinion, the petitioners should first approach the First Appellate Authority by filing appropriate petitions.

Accordingly, we allow the Special Leave Petitions and set aside the

impugned judgment and order qua the petitioners. We reserve liberty to the applicants/ petitioners, if they so desires, to question the correctness or otherwise of the assessment order passed by the Assessing Authority by filing appropriate petitions before the First Appellate Authority for the relevant assessment years within a month's time from today.

If such petitions are filed within the time granted by this Court, the appellate authority shall consider and decide the same as early as possible in accordance with law, without reference to the period of limitation.

I.A.Nos. /14 in S.L.P.(C)Nos.17473, 17627, 19740, 17546, 17592, 17565, 17651, 17623, 17551, 17548, 17585, 17666, 17428, 12911, 17418, 17656, 17669, 17686, 17547, 17644 & 17539 of 2010:

In these petitions, the applicants/ petitioners withdrew their appeal before this Court on 24.09.1999 with liberty to approach the Tribunal to argue the case afresh in the light of Gobind Mills Ltd vs. State of Bihar (1999) 7 SCC 76. The Tribunal remanded the matter back to the Appellate Authority to hear and decide the matters in the light of Gobind Mills Case (supra). However, the Appellate Authority dismissed the applications filed by the applicants/ petitioners. The applicants/ petitioners thereafter challenged the order of the Assessing Officer directly before the High Court without filing appropriate petitions before the Tribunal.

The High Court without relegating the petitioner to first exhaust the alternative remedy available to them under the provisions of the Act has dismissed the writ petitions. Aggrieved by the orders so passed by the High Court the applicants/ petitioners are before us in these special leave petitions.

Since the applicants/petitioners have directly approached the High Court without taking recourse to appeal before the Tribunal, in our opinion, the applicants/ petitioners should first approach the Tribunal by filing appropriate petitions.

Accordingly, we allow the Special Leave Petitions and set aside the impugned judgment and order qua the petitioners. We reserve liberty to the applicants/petitioners to question the correctness or otherwise of the assessment order passed by the Assessing Authority by filing appropriate petitions before the Tribunal for the relevant assessment years within a month's time from today.

If such petitions are filed within the time granted by this Court, the Tribunal shall consider and decide the same as early as possible in accordance with law, without reference to the period of limitation.

All the Interlocutory Applications are disposed of accordingly.

(G.V.Ramana)
Court Master

(Vinod Kulvi)
Asstt.Registrar