

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

Petition for Special Leave to Appeal (Civil) No.10324/2010

(From the judgement and order dated 20/01/2010 in CWP No.17878/2008 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

M/S A.B.SUGARS LTD. Petitioner(s)

VERSUS

STATE OF PUNJAB & ANR. Respondent(s)
(With prayer for interim relief and office report)

WITH SLP(C) NO. 10337 of 2010
(With prayer for interim relief)

SLP(C) NO. 10619 of 2010
(With prayer for interim relief)

SLP(C) NO. 12415 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 12472 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 12911 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 13008 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17418 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17420 of 2010
(With office report)

SLP(C) NO. 17428 of 2010
(With prayer for stay and for interim relief and office report)

SLP(C) NO. 17473 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17539 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17546 of 2010
(With office report)

SLP(C) NO. 17547 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17548 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17551 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17565 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17585 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17592 of 2010
(With office report)

SLP(C) NO. 17623 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17627 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17641 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17644 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17651 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17656 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17666 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17669 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17686 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 17801 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 19729 of 2010
(With appln.for exemption from filing c/c of the impugned judgment and office report)

SLP(C) NO. 19730 of 2010
(With appln.for exemption from filing c/c of the impugned judgment and office report)

SLP(C) NO. 19731 of 2010
(With appln.for exemption from filing c/c of the impugned judgment and office report)

SLP(C) NO. 19738 of 2010
(With appln.for exemption from filing c/c of the impugned judgment and office report)

SLP(C) NO. 19740 of 2010
(With appln.for exemption from filing c/c of the impugned judgment and office report)

SLP(C) NO. 20411 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 20702 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 20703 of 2010
(With prayer for interim relief and office report)

SLP(C) NO. 23162 of 2010
(With office report)

SLP(C) NO. 23164 of 2010
(With office report)

SLP(C) NO. 23186 of 2010
(With office report)

SLP(C) NO. 23187 of 2010
(With office report)

SLP(C) NO. 23188 of 2010
(With office report)

SLP(C) NO. 23189 of 2010
(With office report)

SLP(C) NO. 23190 of 2010
(With office report)

SLP(C) NO. 23191 of 2010
(With office report)

SLP(C) NO. 23192 of 2010
(With office report)

SLP(C) NO. 23193 of 2010
(With office report)

SLP(C) NO. 23194 of 2010
(With office report)

SLP(C) NO. 23195 of 2010
(With office report)

SLP(C) NO. 28433 of 2010
(With office report)

SLP(C) NO. 6264 of 2011
(With appln.for c/delay in filing SLP and permission to file additional documents and office report)

Date:29/08/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE M.Y. EQBAL

For Petitioner(s) Mr. Devashish Bharuka, Adv.
Mr. Alok Sangwan, Adv.
Ms. Jasneet Kaur, Adv.

Mr. Ravindra Bana, Adv.

Mr. Rohit Sharma, Adv.
Mr. Abhijat P. Medh, Adv.

Mr. Subodh Markandeya, Sr. Adv.
Mr. Ranbir Yadav, Adv.
Mr. P. Kakra, Adv.
Ms. Anzu K Varkey, Adv.
Mr. Cheman Kumar Sharma, Adv.
Mr. Subramonium Prasad, Adv.

Mr. Sudhir Walia, Adv.
Mr. Abhishek Atrey, Adv.

For Respondent(s) Mr. H.N. Salve, sr. Adv.
Mr. Nikhil Nayyar, Adv.
Mr. Jagjit Singh Chhabra, Adv.

Mr. Kuldip Singh, Adv.

Mr. Aditya Sinh, Adv.

Mr. Kamal Mohan Gupta, Adv.

Mr. Kavita Wadia, Adv.

Mr. Ajay Pal, Adv. (NP)

UPON hearing counsel the Court made the following
O R D E R

S.L.P.(C) Nos. 10324 of 2010

The petitioner herein is a sugar mill which calls in question the correctness or otherwise of the common order passed by the High Court of Punjab and Haryana at Chandigarh in C.W.P. No. 17878 of 2008, dated 20.01.2010, whereby the High Court has dismissed all the writ petitions praying, inter alia, for quashing of notification issued by the Government of State of Punjab imposing tax at the rate of 50 paisa for 100 kgs on purchase of sugar cane by or on behalf of the sugar cane mills, dated 27.05.1998 and for issuance of declaration to the effect that no purchase tax on the purchase of sugarcane be levied and collected from them under the provisions of the Punjab General Sales Tax Act, 1948 (for short, 'the Act').

Insofar as this special leave petition is concerned, in our considered view, it may not be necessary for us to delve into the correctness or otherwise of the impugned judgment and order passed by the Writ Court. We say so for the reason that the petitioner having filed the Writ Petition before the Writ Court had only questioned the assessment order passed by the Assessing Authority, Hoshiarpur, Punjab under the provisions of the Act, dated 28.04.2008 and not impugned the relevant provisions of the Act. The petitioner now seeks to assail the provisions of the Act while impugning the common judgment and order of the Writ Court.

In our considered opinion, since the petitioner had called in question only the assessment order passed by the Assessing Authority, in light of there being an efficacious alternative remedy available to the petitioner under the Act, the Writ Court ought to have relegated the petitioner to first exhaust the alternative remedy available to them under the provisions of the Act instead of adjudicating the case on its merits.

In aid to our aforesaid conclusion, we rely upon the decision of this Court in Titaghur Paper Mills Co. Ltd. & Anr. vs. State of Orissa & Ors., (1982) 2 SCC 433 wherein this Court after detailed analysis of the statutory provisions of various fiscal enactments had come to the conclusion that if an alternative, effective and efficacious remedy available under the relevant statute, the assessee should exhaust the said remedies before invoking the writ jurisdiction of the Writ Court. This Court has clarified that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.

In view of the above, without going into the merits or demerits of the petitioner's case we dispose of this special leave petition with liberty to the petitioner, if it so desires, to question the correctness or otherwise of the assessment order passed by the Assessing Authority, dated 28.04.2008 by filing an appropriate appeal

before the Appellate Authority under the provisions of the Act within thirty days' time from today. If such an appeal is filed within the time granted by this Court, the Appellate Authority shall consider the same only on merits without any reference to the period of limitation.

However, it is clarified that the Appellate Authority shall not be influenced by the observations made by the High Court while disposing of the writ petition.

All contentions of the parties are left open.

Ordered accordingly.

SLP(C) No. 10337, 10619 of 2010

These special leave petitions are disposed of in terms of the order passed in Special Leave Petition (Civil) No. 10324 of 2010.

Rest of the matters

Dismissed.

| [Charanjeet Kaur]
| Court Master

| | [Vinod Kulvi]
| | Asstt. Registrar

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