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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

J.B. PARDIWALA; J., SANDEEP MEHTA; J.

CIVIL APPEAL NO. 4440, 4441, 4442 OF 2014; 11 September, 2025

M/S. SHIV STEELS APPELLANT(S) *versus* THE STATE OF ASSAM & ORS.

Assam General Sales Tax Act, 1993 - Sections 19, 21 - Reassessment after time - barred assessment - Scope and limitation – Held, on Tax matters, strict letter of law must be followed - No tax can be imposed by inference or analogy - Where initial assessments for the relevant years were held to be time-barred under Section 19, subsequent reassessment with prior sanction under Section 21 is not permissible - Section 21 applies only where no assessment has been made within the time limits specified under Section 19, not where time-barred assessments have already occurred - High Court erred in its interpretation by permitting reassessment post time-barred determination merely on the basis of Commissioner's sanction - Strict construction must be applied for fiscal statutes, and tax liability can be imposed only if the case falls strictly within the statutory provisions - No tax can be imposed by inference, analogy or presumed legislative intent - Appeal allowed. [Para 12-15]

Mr. Manish Goswami, senior counsel for the appellant

Mr. Chinmoy Pradip Sharma, senior counsel for the State of Assam

ORDER

1. Since the issues raised in all the captioned appeals are same, the parties are also the same and the challenge is also to the self same judgment and order passed by the High Court, those were taken up for hearing analogously and are being disposed of by this common order.
2. For the sake of convenience, we take up the Civil Appeal No. 4440 of 2014 as the lead matter.
3. This appeal arises from the common judgment and order passed by the Gauhati High Court dated 21.09.2012 in WP(C) No. 3178 of 2011 by which the Writ Petition filed by the appellant herein came to be dismissed by which the Order of reassessment dated 31.3.2011 passed under the provisions of the Assam General Sales Tax Act, 1993 (for short, "the Act, 1993") was set aside and the matter was remitted to the Assessing Officer for fresh consideration.
3. In the present case, we are concerned with the assessment years 2003-2004, 2004-2005 and 2005-2006 respectively.
4. It is the case of the appellant that the assessments undertaken for all these years were time barred. The learned counsel appearing for the appellant would argue that the authority concerned having regard to the time limit prescribed under Section 19 of the Act, 1993 declared the assessments for all the assessment years to be time barred. However, later the department obtained the sanction of the Commissioner and invoked Section 21 of the Act, 1993 to bring the fresh assessment within the period of limitation.
5. The petitioner being dissatisfied by the fresh assessment challenged the same before the High Court.
6. The High Court dismissed the writ petition holding as under:-

“6. Learned counsel for the Revenue submits that the reassessment was within limitation under Section 21 of the Act which provides for outer limit of seven years if reassessment was made with the sanction of the Commissioner. In the present case, sanction was duly granted by the Commissioner on 21.03.2011 and therefore, reassessment was within time. It was also submitted that quashing of earlier assessment as barred by limitation in absence of grant of sanction by the Commissioner did not debar the assessment being made after the sanction was granted. It was further submitted that as far as ex-parte assessment is concerned, grievance of the Petitioner could be considered by the assessing authority.

7. On due consideration, we are unable to find any merit in the first two submissions in view of sanction having been duly granted on 21.03.2011 under Section 21 of the Act. Thus, the assessment cannot be held to be barred by limitation nor quashing of earlier order debar fresh assessment being made in accordance with law after the sanction was granted. As regards giving of proper hearing to the Petitioner, in view of stand of learned counsel for the revenue the assessing authority can consider the view point of the Petitioner and then finalize the assessment and may not give effect to the ex parte assessment.

8. Accordingly, we dispose of these petitions with a direction that earlier ex parte assessment may not be acted upon and fresh assessment be made after giving hearing to the Petitioner. The Petitioner may appear before the Assessing Authority for the purpose on December 17, 2012.”

7. In such circumstances, referred to above, the appellant is here before this Court with the present appeal.

8. We heard Mr. Manish Goswami, the learned senior counsel appearing for the appellant and Mr. Chinmoy Pradip Sharma, the learned senior counsel appearing for the State of Assam.

9. The short point that falls for our consideration is whether the High Court was right in taking the view that although the earlier assessments for the three years referred to above were held to be time-barred, yet, the revenue having obtained appropriate sanction from the Commissioner, the limitation thereafter would be governed by Section 21 of the Act, 1993.

10. Section 19 of the Act, 1993 reads thus: -

“19. Time limit for completion of assessment and re-assessments.

(1) No assessment shall be made under section 17 after the expiry of three years from the end of the year in respect of which or part of which the assessment is made or, in a case where the dealer has furnished a return or a revised return under sub-section (4) of section 16 after the expiry of two years in which such, return or revised return is received by the Assessing Officer, whichever is later:

Provided that in a case falling under sub-section (6) of section 17, the assessment may be made at any time before the expiry of eight years from the end of the year in respect of which or part of which the assessment is made under that subsection.

(2) No re-assessment under section 18 shall be made -

(a) In a case falling under clause (1) of that section, after the expiry of three years; and

(b) In a case falling under clause (b) of that section after the expiry of one year from the end of the year in which the notice under that section is served on the dealer.

(3) Notwithstanding anything contained in subsection (1) or sub-section (2) an assessment, reassessment or re-computation to give effect to any order or direction in appeal, revision or references, may be made at any time before the expiry of two years from the end of the year in which the order in appeal, revision or reference is communicated to the Assessing Officer.

Explanation. - In computing the period of limitation for the purposes of sub-section (1) or sub-section (2), the period during which the assessment proceeding is stayed by an order or injunction of any court or other authority, shall be excluded and such proceeding may be completed within one year from the end of the year in which the stay was vacated as if the limitation period had not expired."

11. Section 21 of the Act, 1993 reads thus: -

"21. Assessment in certain cases.

*Where [***] no assessment has been made under any of the foregoing provisions within the time limits specified in section 19 then, notwithstanding anything contained in that section the assessment shall be made within four years from the date of expiry of the limitation period with prior sanction from the Commissioner:*

Provided that the powers of the Commissioner to accord sanction for assessment as aforesaid shall not be delegated by him to any person appointed to assist him under sub-section (1) of section 3."

12. The plain reading of Section 21 of the Act, 1993, referred to above, would indicate that in cases where no assessment has been made under any of the provisions within the time limits specified in Section 19, then, notwithstanding anything contained in that Section the assessment would be permissible within four years from the date of expiry of the limitation period with prior sanction from the Commissioner.

13. Here is a case wherein the assessments undertaken for the three years were already held to be invalid because of being time barred, in view of Section 19 of the Act, referred to above. Later, by virtue of obtaining sanction from the Commissioner, the revenue could not have taken recourse to Section 21 of the Act to say that the reassessment within four years is permissible with prior sanction from the Commissioner. Section 21 would apply only in cases where no assessment has been made under any of the provisions of the Act within the time limits specified in Section 19. The interpretation of the two provisions of the Act at the end of the High Court is completely incorrect.

14. In construing fiscal statutes and in determining the liability of a subject to tax one must have regard to the strict letter of law. If the revenue satisfies the court that the case falls strictly within the provisions of the law, the subject can be taxed. If, on the other hand, the case is not covered within the four corners of the provisions of the taxing statute, no tax can be imposed by inference or by analogy or by trying to probe into the intentions of the legislature and by considering what was the substance of the matter.

15. In view of the aforesaid, the present appeal, along with the two connected appeals stands allowed and the common judgment and order passed by the High Court is hereby set aside.

16. Pending application(s), if any, stands disposed of.