

Gopaldas Sarvadaya! vs Commissioner Of Sales Tax, U.P. on 28 November, 1955

Equivalent citations: AIR1956ALL305, [1956]7STC360(ALL), AIR 1956 ALLAHABAD 305, 1956 ALL. L. J. 26, 1956 7 STC 360, ILR (1956) 1 ALL 53

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Bench: Raghubar Dayal, V. Bhargava

JUDGMENT

V. Bhargava, J.

1. The applicants, Messrs. Gopaldas Sarvadaya! were assessed to sales tax and, after having appealed against the assessment to Judge (Appeals), they came in revision before the Judge (Revisions). The revision application was heard by the learned Judge on 4-6-1951, and the order under Sub-section (3) of Section 10, U. P. Sales Tax Act, on that application was dictated and pronounced in open Court on the same date by the learned Judge (Revisions).

On 6-8-1951. the applicants moved an application under Sub-section (1) of Section 11 of the Act, requiring the Revising Authority to refer to the High Court certain questions of law arising out of that order. The application was returned to the applicants on the ground that it was not accompanied by a copy of the order passed under Sub-section (3) of Section 10 of the Act.

The copy of that order, required to be sent to the applicants under Rule 70 of the rules framed under the Act, was received by the applicants on 20-8-1951. Thereafter the applicants again sent their application for reference of the questions of law to the Court by post accompanied by a copy of the order that had been sent by them. This application was received by the Judge (Revisions) on 25-8-1951.

At the hearing of this application, a question arose whether it was time barred. The learned Judge (Revisions) held that the application was time-barred and, consequently, rejected it. Thereupon the applicants moved this Court under Sub-section (3) of Section 11 of the Act, requesting that this Court may require the Revising Authority to state the case and refer it to this Court. That application came up before a Division Bench of this Court which, in the circumstances mentioned above, referred the following question to a Pull Bench for opinion ;

"Q. Whether, in computing the period of sixty days within which an application must be made under Sub-section (1) of Section 11, U. P. Sales Tax Act (as in force in the

year 1952) an assessee is entitled to exclude the time requisite for obtaining a copy of the order under Sub-section (3) of Section 10?"

2. The period of 60 days, within which the application had to be made to the Revising Authority requiring it to refer to the High Court questions of law arising out of an order under Sub-section (3) of Section 10, U. P. Sales Tax Act, was prescribed in Sub-section (1) of Section 11 of that Act itself. The U. P. Sales Tax Act contained no provision making the provisions of the Limitation Act applicable in computing the period of limitation prescribed under that Act.

There is, however, no doubt that Section 29, Limitation Act, is applicable to the U. P. Sales Tax Act which is a special law dealing with sales tax in Uttar Pradesh having been passed by the U. P. Legislature. Under Section 29, Limitation Act, the period of limitation prescribed for any suit, appeal or application by the U. P. Sales Tax Act has to be computed after applying the provisions contained in Sections 4, 9 to 18 and 22, Limitation Act, as laid down in this latter Act.

It is, therefore, clear that Section 12, Limitation Act, on which reliance has been placed by the applicants is applicable to proceedings under the U. P. Sales Tax Act. Sub-section (1) of Section 12, Limitation Act, lays down that "In computing the period of limitation prescribed for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded."

The applicants are clearly entitled to this benefit of excluding the day on which the order under Sub-section (3) of Section 10, U. P. Sales Tax Act, was passed by the Judge (Revisions). This, however, does not assist the applicants. What they desire is that the benefit provided by Sub-section (2) of Section 12, Limitation Act, might be made available to them.

Sub-section (2) of Section 12, Limitation Act, is as follows:

"12 (2). In computing the period of limitation prescribed for an appeal, an application for leave to appeal and an application for a review of judgment, the day, on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be reviewed, shall be excluded."

The difficulty arises because, on the plain language of Sub-section (2) of Section 12, Limitation Act, the time requisite for obtaining a copy of the decree, sentence or order is only to be excluded when the period of limitation is being computed as prescribed for an appeal, an application for leave to appeal or an application for review of judgment. The application by the applicants under Sub-section (1) of Section 11, U. P. Sales Tax Act, was not an appeal or an application for leave to appeal or an application for review of a judgment. On the plain language of Sub-section (2) of Section 12, Limitation Act, therefore, the applicants are not entitled to exclude the period requisite for obtaining the copy of the order of the Judge (Revisions) under Sub-section (3) of Section 10, U. P. Sales Tax Act, in computing the period of 60 days prescribed under Sub-section (1) of Section 11 of that Act for making an application for reference to the High Court.

Learned counsel for the applicants has, however, urged an argument, based on the view taken by a Division Bench of the Patna High Court in -- 'Mohan Lal Hardeo Das v. Commissioner of Income-tax, B. & O.', AIR 1930 Pat 14 (A), that the effect of the language of Section 29 Limitation Act, is that, even though Sub-section (2) of Section 12, Limitation Act, permits exclusion of time requisite for obtaining copy of a decree, sentence or order only in the case of "an appeal, an application for leave to appeal or an application for review of judgment, "the time, which can be excluded under Sub-section (2) of Section 12, Limitation Act, must be excluded, whenever the period of limitation prescribed by any special or local law has to be computed, with respect to "any suit, appeal or application."

The question that thus arises is whether the time requisite for obtaining a copy of a decree sentence or order must be excluded in computing the period of limitation prescribed by a special or local law in respect of "any suit, appeal or application" because these words have been used in Section 29, Limitation Act, even though Sub-section (2) of Section 12 of that Act grants that benefit only in the case of "an appeal, an application for leave to appeal or an application for review".

In my opinion, this contention cannot be accepted as the words "any suit, appeal or application" in Section 29 are not meant for the purpose of enlarging the scope of Sub-section (2) of Section 12, Limitation Act but merely for the purpose of describing the nature of proceedings to which, Sections 4, 9 to 18 and 22 are to be applied, provided they happen to be applicable.

The purpose of Section 29 appears to be that the provisions contained in Sections 4, 9 to 18 and 22. Limitation Act, must be taken into account whenever a period of limitation prescribed by a special or local law has to be computed. The general words "any suit, appeal or application" had to be used in Section 29 because that section brought about the applicability not only of Sub-section (2) of Section 12 but of a number of provisions of the Limitation Act.

Under Section 4, Limitation Act, whenever the period of limitation prescribed for "any suit, appeal or application" expires on a day when the Court is closed, the suit, appeal or application can be instituted, preferred or made on the day when the Court reopens. Sections 10, 11, 13, 14 and 16 deal with special types of suits or suits instituted under special circumstances. Section 10 lays down that suits contemplated therein shall not be barred by any length of time.

Section 11 governs limitation in respect of 'suits instituted in British India on contracts entered into in a foreign country and makes the rules of limitation contained in the Indian Limitation Act applicable to such suit. Section 13, Sub-section (1) of Section 14 and Section 16 permit exclusion of certain periods of time when computing the period of limitation for the suits mentioned in these sections.

Section 15 deals with the computation of the period of limitation prescribed for any suit or application for the execution of a decree when the institution or execution has been stayed by injunction or order. Sections 17 and 18 deal with computation of the period of limitation in certain cases when such period has to be computed with reference to a right to-institute a suit or make an application, Section 22 also lays down a rule governing the question as to when a suit is to be

deemed to be instituted under certain circumstances. Subsection (1) of Section 12 deals with a special rule for computation of the period of limitation prescribed for "any suit, appeal or application". Subsections (2) and (3) of Section 12 deal with computation of the period of limitation prescribed for an appeal, application for leave to appeal or for an application for review of a judgment.

Sub-section (4) of Section 12 lays down a rule for computing the period of limitation prescribed for an application to set aside an award. Thus it is clear that Sections 4, 9 to 18 and 22 made applicable by Section 29 to the computation of the period of limitation prescribed by any special or - local law refer to various suits, appeals or applications and some of them are very generally worded inasmuch as the words "any suit, appeal or application" are used in them.

This appears to be the reason why, in Section 29, the legislature considered it necessary to use the words "any suit, appeal or application" when laying down that the provisions of Sections 4, 9 to 18 and 22, Limitation Act, shall apply for the purpose of determining the period of limitation under a special or local law.

The mere use of these words in Section 29 could not have been intended to lay down that even where the provision made applicable by Section 29 is limited in its scope, it must be applied in all proceedings provided they are covered by the words "any suit, appeal or application".

To me it appears that all that Section 29 was intended to do was to make Sections 4, 9 to 18 and 22, Limitation Act, applicable when computing the period of limitation under a special or local law exactly in the same manner as they would be applicable when computing the period of limitation for similar proceedings under the general law which would be governed by the provisions of the Indian Limitation Act. There appears to be no justification for holding that Section 29 enlarges the scope of the provisions made applicable by it to computation of period of limitation prescribed under a special local law beyond the scope plainly laid down in those provisions when they are applied for the purpose of computing the period of limitation under the Indian Limitation Act itself.

I entirely agree with the views, expressed by my brother Desai, J., in -- 'Ram Singh v. Panchayat Adalat', AIR 1954 All 252 (B), while dealing with the question whether the time taken in obtaining a copy of the order of the Panchayati Adalat can be excluded under Sub-section (2) of Section 12, Limitation Act, when computing the period of limitation of 60 days prescribed for an application under Section 85, U. P. Panchayat Raj Act, to the effect that "The Court must have regard to the provisions of the whole of the section and must apply them but only so far as they can be applied. The Court is not required or authorised to make any alterations in the provisions in order to make them applicable, if otherwise they would not be applicable, it is not required or authorised to apply only their principle or analogy.

It must be borne in mind that Section 29 (2)¹ makes applicable the provisions contained in several sections when the period of limitation prescribed for any suit, appeal or application is to be determined.

It may be that in a certain case the provisions of one of those sections cannot be applied because it does not contain the facts to which the provisions of that section can be applied or, in other words, there may be a case in which though due regard is to be had to the provisions of one of those sections, no effect can be given to its provisions.

In such a case, it is not competent to the Court to modify the language of the section in order to give effect to its principle or to apply it by way of an analogy."

3. The wide interpretation sought to be put) by learned counsel on the provisions of Section 29, if considered with reference to all the provisions of the Indian Limitation Act made applicable by that section to the computation of period of limitation under any special or local law, will lead to startling results.

Section 13, Limitation Act, as already mentioned by me earlier, deals with the method of computing the period of limitation prescribed for any suit and lays down that the time, during which the defendant has been absent from British India and from the territories beyond British India under the administration of the Central Government or the Crown Representative, shall be excluded.

If the submission of learned counsel about the scope of Section 29 be accepted, Section 13, Limitation Act, will have to be interpreted as laying down a rule for computing a period of limitation prescribed not only for a suit but for an appeal as well as an application when the suit, appeal or application happens to be under a special or local law.

The effect of this interpretation on Sub-section (2) of Section 12 itself may also be considered. If the period of limitation for a suit or an application other than an application for leave to appeal or an application for review of judgment has to be computed under the general law to which the Indian Limitation Act applies, the provisions of Sub-section (2) of Section 12 are clearly not applicable.

On the other hand, on the interpretation of Section 29 pressed before us, the provisions of Sub-section (2) of Section 12 would be applicable to any suit and any application including an application for leave to appeal and an application for review of judgment, provided the period of limitation has been prescribed by a special or local law.

Generally, the period of limitation for an application to execute a decree or order of a civil Court falling under Article 182, Limitation Act, is computed from the date of the decree or order, except where special circumstances mentioned in the third column against that Article exist, and this period is three years unless a certified copy of the decree or order has been registered when it is six years.

It is quite clear that, in computing this period of three years or six years from the date of the decree or order, the time spent in obtaining a copy of the decree or order will not be excluded under Sub-section (2) of Section 12, Limitation Act. Group (F) of the Fourth Schedule to the U. P. Tenancy Act, 1939, prescribes the period of limitation for execution of decrees of various types) passed under that Act.

In the case of an application for execution of a money decree under the U. P. Tenancy Act, the period is three years and is to be computed from the date of the final decree to the case. On the interpretation urged before us, it would have to be held that, in computing the period of limitation for an application for execution of a money decree under the U. P. Tenancy Act, the provisions of Sub-section (2) of Section 12, Limitation, Act, would have to be applied and the time requisite for obtaining a copy of the, final decree will be excluded.

The circumstance that it may not be necessary to file a certified copy of the decree, when applying for execution, will be immaterial in view of the decision of their Lordships of the Privy Council in -- *Jijibhoy N. Surty v. T.S. Chettyar Firm*', AIR 1928 PC 103 (C), because a decree-holder may require a copy of the. decree and judgment for purposes other than the filing of the copy at the time of making the application for execution. Their Lordships of the Privy Council held "Section 12 makes no reference to the Code of Civil Procedure or to any other Act. It does not say why the time is to be excluded, but simply enacts it as a positive direction.

If, indeed, it could be shown that in some particular class of cases there could be no object in obtaining the two documents, an argument might be offered that no time could be requisite for obtaining something not requisite. But this is not so. The decree may be complicated, and it may be open to draw it up in two different ways, and the practitioner may well want to see its form before attacking it by his memorandum of appeal."

On this principle, a decree-holder executing his decree under the U. P. Tenancy Act may very well claim that he requires a copy of the decree in order to decide whether he should apply for execution and to choose the manner of executing the decree. He would then be" entitled to claim that, under Section 29, Limitation Act, the period requisite for obtaining the copy of the decree should be excluded when computing the period of limitation for that application prescribed by the U. P. Tenancy Act which is clearly a special and local law.

I am unable to accept that the legislature, in using the words "any suit, appeal or application" in Section 29, could have intended to so enlarge the scope of Sub-section (2) of Section 12 as to make it applicable in the case of an application for execution under the U. P. Tenancy Act or such other special or local laws while Sub-section (2) of Section 12 was clearly so worded as not to be applicable to an application for execution under the general law, the period of limitation for which is prescribed by the Indian Limitation Act itself.

The Interpretation, which thus seeks to widen the scope of Sub-section (2) of Section 12 in its applicability to computation of periods of limitation prescribed by a special or local law, cannot be said to be in conformity with the intention of the legislature in enacting Section 29, which, obviously, was to give the benefit of this provision to a person whose appeal or application for leave to appeal or application for review of Judgment was governed by Limitation prescribed by the special or local law and not by the general law incorporated in the Limitation Act.

4. The first case, to which we were referred by learned counsel for the applicant, is a decision of a Division Bench of the Rangoon High Court in -- '*Ramanatha Reddiar v. Commissioner of*

Income-tax'. AIR 1928 Rang 152 (D). In that case, the question arose whether an application for a reference to the High Court under Section 66 (a), Income-tax Act, on a question of law arising out of an order passed under Section 31 of that Act! was barred by time.

The learned Judges held that the applicant was entitled to be furnished with a copy of the reasons for the order under Section 31, Income-tax Act, and the time taken by the office to furnish such copy must be excluded in computing the period of one month allowed to the assessee to apply for the reference.

In arriving at this decision, the learned Judges did not, however, make a reference to any provision of the Indian Limitation Act under which the assessee was entitled to exclude the time taken by the office to furnish the copy of the order in computing the period of one month allowed to the assessee to apply for the reference. It was not held in so many words that this benefit was to be granted to the assessee under Section 12 (2) read with Section 29, Limitation Act.

The learned Judges merely gave the benefit envisaged under Section 12 (2), Limitation Act, in cases of appeals, applications for leave to appeal and applications for review to an assessee, who had to file an application under Section 66 (2), Income-tax Act, without even expressing the view that the provisions of Section 12 (2), Limitation Act, were applicable to an application under Section 66 (2), Income-tax Act.

The next case is a decision under the Indian Income-tax Act by a Division Bench of the Lahore High Court in -- 'Muhammad Hayat Haji Muhammad Sardar v. Commissioner, Income-tax Punjab and N. W. F. P.', AIR 1929 Lah 170 (E). In that case, the question that arose related to the limitation for an application under Sub-section (3): of Section 66, Income-tax Act, presented in the High Court requesting the Court to direct the Commissioner of Income-tax to state the case.

The order of the Commissioner under Sub-section (2) of Section 66 was passed on 17-8-1927. The application for a copy of the order of the Commissioner of Income-tax was presented on 15-2-1928, and the copy was delivered to the assessee on 12-3-1928. It was held that "If the days spent in obtaining the copy be excluded, as they should be under Section 29, Limitation Act (as amended in 1922), the petition is within time."

The point in discussion in the present case is not whether Section 29, Limitation Act, is applicable to special or local laws like the Sales Tax Act or the Indian Income-tax Act but whether Section 12 (2), Limitation Act, is applicable to an application under those Acts for a reference by the appropriate authority or for a direction by the High Court to state the case when Section 12 (2) merely mentions an appeal, an application for leave to appeal and an application for review.

This aspect of the case not having been examined by the Lahore High Court in that case, that case is not of any assistance on the point which has arisen in the present case. The view taken by the Lahore High Court in the case just cited was followed by a learned Single Judge of the Calcutta High Court in -- 'India Ice and Cold Storage Co., Ltd. v. Member, Board of Revenue, West Bengal', ILR (1949) 2 Cal 285 (F), which was a case under the Bengal Finance (Sales Tax) Act.

It was held in that case that, in computing the period of limitation for an application under Section 21, Bengal Finance (Sales Tax) Act, to require the Board to state a case, the time requisite for obtaining a copy of the order of the Board of Revenue should be excluded as provided in Section 29, Limitation Act. This decision was given solely on the basis of the decision of the Lahore High Court mentioned above and contains no reasoning at all.

The most important case, on which learned counsel for the applicant has mainly placed his reliance, is the decision of the Patna High Court in AIR 1930 Pat 14 (A), which I have already mentioned earlier. In that case, reference was made to the decisions of the Rangoon and Lahore High Courts mentioned above. Thereafter the point, which has now been canvassed before us, was discussed and it was held :

"It will not be straining the law to hold that the main principle laid down in Section 12, namely, that the period for obtaining copies shall be excluded in computing the period of limitation in certain cases has been made applicable by Section 29 in the case of a suit, appeal or an application under the special law for which a period of limitation has been prescribed and this will cover an application under Section 66 (2) and (3), Income-tax Act.

In my judgment, technicalities apart, this will be the only reasonable way of giving effect to the intention of the legislature. This is the view which seems to have been taken by the Lahore High Court in the case to which I have referred just now and which was a case in which the question of limitation arose in connection with an application made to the High Court under Section 66, Clause (3).

This is also substantially the view of the Rangoon High Court and it finds no little support from the line of reasoning which was adopted in many cases which were decided before the passing of Act 10 of 1922. In those days there was nothing in Section 29, Limitation Act, or anywhere else to make the general provisions of the Limitation Act as found in Sections 4, 9 to 18 and 22 applicable to any of the special laws or enactments.

It was, however, held in a number of cases that these general provisions would apply to a special enactment where the Act is not a complete code in itself."

The reasoning, which was adopted by the Patna High Court in that case, has already been dealt with by me and I must say with respect that I am unable to agree with it for the reasons which I have already given above. In that case, the main reason for arriving at the view that the benefit of Section 12 (2), Limitation Act, should be granted in "any suit, appeal or application" under a local or special law was that the intention of the legislature in enacting Section 29 could have only been to grant the benefit of the provisions of Section 12 (2), Limitation Act, in all such cases.

I have already indicated that, in interpreting Section 29, Limitation Act, we must not lose sight of the fact that that section makes applicable to special or local laws not only the provisions of Section

12 (2), Limitation Act, but the provisions of a number of other sections of that Act and there is nothing in S, 29 which compels the view that the benefit of all those provisions made applicable must be granted in "any suit, appeal or application", even though those provisions in terms are not applicable and are made applicable by the Indian Limitation Act to certain special proceedings only as is the case with Section 12 (2) of that Act, which was obviously enacted only for the 'purpose of an appeal, an application for leave to appeal and an application for review.

A Division Bench of this Court in -- 'Amritsar Sugar Mill Co., Ltd. v. Commissioner, Sales Tax, U. P., Lucknow', AIR 1952 All 816 (G), agreed with the view taken by the Patna High Court in the case in AIR 1930 Pat 14 (A), and granted the benefit of Section 12 (2), Limitation Act, in respect of an application under Section 11 (2) of the Act to the High Court for an order calling for a statement of the case from the Judges (Revisions), Sales Tax.

The point also came up later before another Division Bench of this Court of which I was a member, in the case of -- 'Simbhaoli Sugar Mills Co., Ltd. v. Commissioner of Sales Tax, U. P., Lucknow, AIR 1953 All 558 (H). In the latter case, the point was not examined at all and the Bench merely followed the principle laid down in the earlier case of this Court in AIR 1952 All 816 (G), holding that the Bench was bound by that decision.

Both these decisions thus do not deal with the point. The first decision of this Court follows and approves of the view expounded by the Patna High Court and the later decision was on the basis that the earlier decision of this Court was binding. These cases do not, therefore, give any assistance in the discussion of the point which has arisen in the present case.

Our attention was also drawn to a decision of a Pull Bench of this Court in -- 'Dropadi v. Hira Lal', 34 All 496 (I), but that case is also of no assistance as the decision was given at a time when Section 29, Limitation Act, had not been amended by the Amendment Act of 1922 and, merely provided that nothing in the Indian Limitation Act would affect or alter the period of limitation prescribed by any special or local law.

It was held by the Pull Bench that, though the Provincial Insolvency Act was a special law within the meaning of Section 29, Limitation Act, it was not in itself a complete, code and, consequently, there was nothing to prevent the application thereto of the general provisions of the Indian Limitation Act. On this view, the provisions of Section 12 (2), Limitation Act, were applied to an appeal under the Provincial Insolvency Act.

Since the question in that case related to the applicability of Section 12 (2) of the Act to "an appeal" under the Provincial Insolvency Act, the question, that has now arisen whether the provisions of that section can be applied to "a proceeding other than an appeal, an application for leave to appeal or an application for review" under a special or local law, did not arise in that case at all.

5. On the other side, the earliest relevant case is the decision of a learned Single Judge of this Court in -- 'Kashi Prasad v. Notified Area of Mahoba', AIR 1932 All 598 (J), where the question arose whether the provisions of Section 12 (2), Limitation Act, could be applied to an application under

Section 18, Land Acquisition Act. It was held:

"Section 12, Limitation Act refers to an application for leave to appeal and an application for review of judgment, and to no other application. We can read an application for reference under Section 18, Land Acquisition Act, as coming within the purview of Section 12, Limitation Act only by materially modifying the language of Section 12.

I am of opinion that Section 29, Limitation Act, does not apply to an application under Section 18, Land Acquisition Act, and, therefore, the time of six weeks could not be extended."

The learned Judge agreed with the view entertained by the Lahore High Court in -- 'Nafis-ud-din v. Secretary of State', AIR 1927 Lah 858 (2) (K), which was also to the same effect. Amongst recent cases, I have already had occasion to refer, to the views expressed by our brother, Desai, J., in the case of AIR 1954 All 252 (B).

There is also a recent decision by a Division Bench of the Nagpur High Court in the case of -- Govindji Murarji v. Commissioner of Sales Tax, M. P., Nagpur', (S) AIR 1955 Nag 113 (L). The learned Judges, referring to the decision of the Patna High Court in AIR 1930 Pat 14 (A), held :

"It is not anywhere stated how an application for reference fell within the terms of Section 12 (2), Limitation Act. Their Lordships pointed out that since S, 29 (2) made Section 12 applicable to special or local laws for determining the period of limitation prescribed by such law for any suit, appeal or application, it was reasonable to hold that Section 12 was applicable to applications under the old Section 66 (2) and (3).

With all respect, we do not agree with this interpretation of Section 12. An application for reference or for mandamus to require the tribunal to make a reference cannot be regarded as an application for review without placing an un-warranted construction on these words."

6. On a review of these relevant decision on the point, I consider that there is no justification for holding that the provisions of Section 12 (2), Limitation Act, are applicable to the computation of the period of limitation for an application under Sub-section (1) of Section 11, U. P. Sales Tax Act. I would, therefore, answer the question referred to the Full Bench for opinion in the negative.

O.H. Mootham, C.J.

7. I agree.

Agarwala, J.

8. I agree and have nothing to add.

Upadhya, J.

9. I respectfully agree with the view that Section 12 (2) provides for the exclusion of time requisite for obtaining a copy of the judgment only in computing the period of limitation prescribed for an appeal, an application for leave to appeal and an application for review.

The application now before the Court being one asking for a reference to this Court of the question of law said to arise out of the order of the Judge (Revisions) cannot be said to fall in any of these categories. As such the period taken in obtaining the copy cannot be excluded even if Section 12, Limitation Act, be applicable to the case.

10. I agree that the question referred to this Bench should be answered in the negative.

Raghubar Dayal, J.

11. I agree that the question referred to the Pull Bench be answered in the negative as an application under Sub-section (1) of Section 11, U. P. Sales Tax Act, is not covered by the provisions of Section 12 (2), Limitation Act, 1908.