GAHC010054122020

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1732/2020

INDIAN OIL CORPORATION LTD. (MARKETING DIVISION),
A GOVERNMENT OF INDIA ENTERPRISE HAVING ITS REGISTERED OFFICE SITUATED AT BOMBAY AND REGIONAL OFFICE SITUATED AT 2, GARIAHAT ROAD (SOUTH), DHAKURIA, KOLKATA- 700068 AND HAVING ONE OF ITS STATE OFFICE AS N.E. STATE OFFICE, BAMUNIMAIDAN, GUWAHATI. THE PETITIONER IN THE PRESENT PROCEESINGS IS BEING REP. BY SRI VIKASH AGARWAL, THE CHIEF MANAGER (FINANCE) OF THE PETITIONER COMPANY.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, FINANCE (TAXATION) DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE COMMISSIONER OF STATE TAXES
(EARLIER KNOWN AS THE COMMISSIONER OF TAXES)
ASSAM
KAR BHAWAN
DISPUR
GUWAHATI-6.

3:THE DEPUTY COMMISSIONER OF STATE TAXES (APPEALS)
(EARLIER KNOWN AS THE DEPUTY COMMISSIONER OF TAXES (APPEALS)
ASSAM
KAR BHAWAN
DISPUR
GUWAHATI-6.

4:THE ASSISTANT COMMISSIONER OF STATE TAXES
(EARLIER KNOWN AS THE ASSISTANT COMMISSIONER OF TAXES)

GUWAHATI UNIT- A
KAR BHAWAN
DISPUR
GUWAHATI-6

Linked Case : WP(C)/1729/2020

INDIAN OIL CORPORATION LTD. (MARKETING DIVISION)
A GOVT. OF INDIA ENTERPRISE HAVING ITS REGD. OFFICE SITUATED AT BOMBAY AND REGIONAL OFFICE SITUATED AT 2
GARIAHAT ROAD (SOUTH)
DHAKURIA
KOLKATA- 700068 AND HAVING ONE OF ITS STATE OFFICE AS N.E. STATE OFFICE
BAMUNIMAIDAN
GHY. THE PETITIONER IN THE PRESENT PROCEEDINGS IS BEING REP. BY SRI VIKASH AGARWAL
THE CHIEF MANAGER (FINANCE) OF THE PETITIONER COMPANY

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FINANCE (TAXATION) DEPTT.
DISPUR
GHY-6

2:THE COMM. OF STATE TAXES (EARLIER KNOWN AS THE COMM. OF TAXES)
ASSAM
KAR BHAWAN
DISPUR
GHY-6

3:THE DY. COMMISSIONER OF STATE TAXES (APPEALS)
(EARLIER KNOWN AS THE DY. COMMISSIONER OF TAXES (APPEALS))
ASSAM
KAR BHAWAN
DISPUR
GHY-6

4:THE ASSTT. COMMISSIONER OF STATE TAXES
(EARLIER KNOWN AS THE ASSTT. COMMISSIONER OF TAXES)
GHY UNIT-A
KAR BHAWAN
DISPUR

GHY-6

Linked Case : WP(C)/1708/2020

INDIAN OIL CORPORATION LTD. (MARKETING DIVISION)
A GOVT. OF INDIA ENTERPRISE HAVING ITS REGD. OFFICE SITUATED AT BOMBAY AND REGIONAL OFFICE SITUATED AT 2
GARIAHAT ROAD (SOUTH)
DHAKURIA
KOLKATA- 700068 AND HAVING ONE OF ITS STATE OFFICE AS N.E. STATE OFFICE
BAMUNIMAIDAN
GHY. THE PETITIONER IN THE PRESENT PROCEEDINGS IS BEING REP. BY SRI VIKASH AGARWAL
THE CHIEF MANAGER (FINANCE) OF THE PETITIONER COMPANY

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FINANCE (TAXATION) DEPTT.
DISPUR
GHY-6

2:THE COMM. OF STATE TAXES (EARLIER KNOWN AS THE COMM. OF TAXES)
ASSAM
KAR BHAWAN
DISPUR
GHY-6

3:THE DY. COMMISSIONER OF STATE TAXES (APPEALS)
(EARLIER KNOWN AS THE DY. COMMISSIONER OF TAXES (APPEALS))
ASSAM
KAR BHAWAN
DISPUR
GHY-6

4:THE ASSTT. COMMISSIONER OF STATE TAXES
(EARLIER KNOWN AS THE ASSTT. COMMISSIONER OF TAXES)
GHY UNIT-A
KAR BHAWAN
DISPUR
GHY-6

Linked Case : WP(C)/1733/2020

INDIAN OIL CORPORATION LTD. (MARKETING DIVISION)
A GOVT. OF INDIA ENTERPRISE HAVINGITS REGISTERED OFFICE SITUATED AT BOMBAY AND REGIONAL OFFICE SITUATED AT 2
GARIAHAT ROAD (SOUTH) DHAKURIA
KOLKATA-700068 AND HAVING ONE OF ITS STATE OFFICE AS N.E. STATE OFFICE BAMUNIMAIDAN
GUWAHATI
THE PETITIONER IN THE PRESENT PROCEEDING IS BEING REP. BY SRI VIKASH AGARWAL
THE CHIEF MANAGER (FINANCE) OF THE PETITIONER COMPANY

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
FINANCE (TAXATION) DEPTT. DISPUR
GUWAHATI-6

2:THE COMMISSIONER OF STATE TAXES (EARLIER KNOWN AS THE COMMISSIONER OF TAXES)
ASSAM
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GUWAHATI-6

3:THE DEPUTY COMMISSIONER OF STATE TAXES (APPEALS)
EARLIER KNOWN AS THE DEPUTY COMMISSIONER OF TAXES (APPEALS)
ASSAM
KAR BHAWAN
DISPUR
GUWAHATI-6

4:THE ASSISTANT COMMISSIONER OF STATE TAXES
EARLIER KNOWN AS THE ASSISTANT COMMISSIONER OF TAXES)
GUWAHATI UNIT A KAR BHAWAN
DISPUR
GUWAHATI-6

- B E F O R E -

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the petitioners : Dr. Ashok Saraf (Sr. Advocate)
For the Respondents : Mr. B Gogoi, SC Taxation Department

Date of Hearing : 19.03.2024
Date of Order : 19.06.2024

JUDGMENT AND ORDER(CAV)

1. Heard Dr. A. K Saraf, learned senior counsel assisted by Mr. P Baruah, learned counsel for the petitioners. Also heard Mr. B Gogoi learned standing counsel, Taxation Department.

2. These writ petitions were heard together as common questions of facts and law are involved in these cases inasmuch as determination made by the Deputy Commissioner of Taxes (Appeals), dismissing the appeals preferred by the petitioners against the orders of assessment are under challenge in the present batch of writ petitions. The details of the assessment and order corresponding to each writ petition are given in the following tabular form:

Writ Petitions	Notice of demand	Impugned order
WP(C) 1733/2020	09.10.2015	24.10.2019
WP(C) 1708/2020	09.10.2015	24.10.2019
WP(C) 1732/2020	09.10.2015	24.10.2019
WP(C) 1729/2020	09.10.2015	24.10.2019

3. The common facts which are necessary for proper

adjudication of the present writ petitions are recorded herein below:-

I. The petitioner Indian Oil Corporation, hereinafter referred as 'the Company', incorporated under the Companies Act, 1956 was registered as dealer under the Assam General Sales Tax Act, 1993 (hereinafter referred to as, Act 1993). The Company has been purchasing various petroleum products from BRPL on payment of Sales Tax as per provisions of the Act, 1993.

II. The Union of India at the relevant point of time, constituted Oil Prices Committee and said committee recommended that the dealers are to sale its products at the prices fixed by the Central Government and prices so fixed by the Central Government included surcharge to be collected from buyers and to be deposited to the "Oil Pool account". Such recommendation was adopted by the Union of India on 16.12.1977.

III. The Superintendent of Taxes took a view that since the sale price of the petitioner company is more than 40% of the purchase price, the second sale was to be treated as first sale and therefore, the Company was liable to pay tax on the second sale considering it to be first sale in the State of Assam. Such view was based on the explanation to section 8(1)(a) of the Act, 1993 read with Rule 12 of the Assam General Sales Tax Rule, 1993 (for short Rules 1993).

IV. The petitioner company raised an objection to such proposition on the ground that the amount of surcharge

collected on behalf of the Central Government is also included in the sale price and therefore, such sale price for the purpose of the Act, 1993 should be determined after deducting the amount of surcharge collected by the petitioner company on behalf of the Central Government, which had to be contributed to the "Oil Pool Account".

V. Such contention was not accepted by the Superintendent of Taxes and a show cause notice was issued for initiation of penal action on the ground that the petitioner company is liable to pay tax on the sale of products, purchased from the BRPL being selling agent, as per section 8(1)(a) of the Act 1993 read with rule 12 of the rules 1993. A writ petition was filed before this court challenging such notices.

VI. The writ petition was dismissed by a coordinate bench holding that the amount of surcharge collected by the petitioner company, even though passed onto the Oil Pool Account, had to be included in the sale price, as defined under section 2(34) of the Act, 1993.

VII. Being aggrieved, the petitioner company preferred a Writ Appeal and such Writ Appeal was also dismissed by a Division Bench holding that the surcharge collected by the petitioner company on behalf of Central Government and contributed to the Oil Pool Account was not a statutory collection but collected under the executive instruction and therefore, cannot be excluded while calculating sale price. It was further held that such sale was to be treated as first sale

within the meaning of section 8(1)(a) of the Act read with Rule 12 of the Rules 1993, since the sale price exceeded 40% of the purchase price.

VIII. The petitioner company, being aggrieved by such a decision of the Division Bench in the Writ Appeal, preferred an SLP before the Hon'ble Apex Court, which was registered as Civil Appeal No.6619/2001.

IX. Thereafter, during the pendency of the SLP, the authorities passed an ex-parte assessment order and raised demand of Rs.303.98 crores retrospectively from the year 1994-1995 to 1997-1998. While making such assessment and raising demand, tax was levied on the entire amount collected by the petitioner from its customer without any adjustment of the sales tax paid by the petitioner company to BRPL i.e., on first point of sale under section 8(1) of the Act, 1993. An amount of Rs. 158.12 crores were levied as interest.

X. The Hon'ble Apex court by its judgment dated 27.11.2006 passed in the SLP, set aside the impugned notices as well as the assessment made in the meantime, and remanded the matter to the assessing authority to resolve the factual controversy whether the appellant company had collected sales tax from consumers through various dealers on entire resale price and if the answer is yes, the appellate company would be liable to deposit the entire sales tax amount collected from the consumers along with 9% interest from the date of collecting the amount towards the sales tax.

XI. Pursuant to the aforesaid direction of the Hon'ble Apex Court, by an assessment order dated 22.03.2007, though it was found that the petitioner company had not collected any amount by way of sales tax and therefore, the petitioner company was not liable to pay tax on difference between the resale price and the purchase price only and interest @ 24% on the difference amount between the resale price and the purchase price was levied and was calculated upto 30.01.2008.

XII. Being aggrieved, a revision was preferred before the Commissioner of Taxes, Assam under section 36(2) of the Act, 1993. However, such revision petition was also dismissed by the Commissioner of Taxes under its order dated 30.01.2008.

XIII. Being aggrieved, six writ petitions being WP(C) No.1279/2008, WP(C) No.1281/2008, WP(C) No.1278/2008, WP(C) No.1282/2008, WP(C) No.1283/2008, WP(C) No.1305/2008 were preferred by the Company and the Division Bench of this court by a common judgment dated 11.03.2015 passed in WP(C) 1279/2008, and other connected matters allowed the said writ petitions with the following determination and decisions:-

A. The WP(C) No.1282/2008 and WP(C) No.1279/2008 were allowed on the ground that after de novo assessment, in terms of the decision of the Hon'ble Apex Court, the authority found that there was nil demand for the assessment years and as such, there is no question of payment of interest for nil demand.

B. WP(C) No.1281/2008, WP(C) No. 1278/2008, WP(C) No. 1283/2008 and WP(C) No. 1305/2008, were once again relegated to the Superintendent of Taxes with a direction to verify and pass fresh orders in accordance with law under section 22 of AGST Act, as in those cases it was not clear whether there was any tax liability preceding the demand notices and whether the difference of liability is more than 10% between the returns and demand notices.

XIV. Such decision was challenged by the State of Assam before the Hon'ble Apex Court with an application for condonation of delay. Though notices were issued by the Hon'ble Apex Court, however no interim order was passed. Subsequently, such SLP was dismissed by the Hon'ble Apex Court, refusing to interfere with the determination made.

XV. In the meantime, as per the order of the Division bench, fresh assessments were completed by the Assistant Commissioner of Taxes and by order(s) impugned in the present batch of writ petitions levied interest and the Assistant Commissioner of Taxes issued notices of demand, which are also impugned in the present proceeding.

XVI. Being aggrieved by such orders of the Assistant Commissioner of Taxes, the petitioner filed appeals before the Deputy Commissioner of Taxes (Appeal) Guwahati and Deputy Commissioner of Appeal under its order dated 24.10.2019 dismissed the appeals filed by the petitioner by different orders, which are also under challenge in the present batch of

writ petitions.

XVII. Being aggrieved, the present writ petitions are filed.

4. ARGUMENTS ADVANCED BY THE LEARNED COUNSEL FOR THE PETITIONER

Dr. A.K. Saraf, learned senior counsel assailing the impugned order argues the following:

I. The Assistant Commissioner of Taxes, while passing the impugned orders of assessment has gone beyond the direction issued by the Division Bench under its order dated 11.03.2015, inasmuch as, in no unambiguous terms it was held that when there was no tax demand prior to issuance of demand notice, no tax can be levied. Therefore the demand notice asking the petitioner to pay balance amount of interest is not sustainable under law. The appellate authority had failed to consider the submissions advanced by the petitioner in correct perspective inasmuch as, the appellate authority fell into serious error of law in holding that the statement submitted earlier by the company was not in accordance with the provisions of section 16(1) (2) of the Act.

II. The appellate authority further fell into serious error of law while holding that levy of interest for the amount paid after substantial delay is inevitable and the petitioner manifestly made an attempt to mislead the court by not submitting the actual fact of the case before the high court.

III. In terms of the determination made by this court in its judgment dated 11.03.2015, the assessing authority was

only to ascertain the fact as to whether, there was any demand on account of tax after the order of Supreme Court. The Assessing Officer has found demand to be nil in the assessment order and therefore, in terms of this court's order, the Assessing Officer could not have issued notice demanding interest. It is also contended that the scope of the remand of the matter by the high court was limited only to examine as to whether the demand notice pertains to only interest or whether any tax was payable and if there is nil tax demand, no interest would have been levied .

5. ARGUMENTS ADVANCED BY THE LEARNED COUNSEL FOR THE RESPONDENTS

Countering such argument Mr. Gogoi, learned standing counsel for the Taxation Department argues the following:

I. The assessment was made and interest was rightly imposed in terms of the Section 22 of the AGST Act, 1993. He further submits that the Superintendent of Taxes had completed the reassessment for the period 1993-1994 to 1994-1998 and the interest was imposed under section 22 of the Act, 1993 for delayed payments made for the periods and adjustment of amount, paid by the company on 05.06.2002, 19.06.2002 and on 22.03.2007.

II. According to Mr. Gogoi, the Hon'ble Apex Court while remanding the matter in Civil Appeal No.6619/2001, in no unambiguous terms clarified that the assessment is to be

made in terms of the determination rendered.

III. According to Mr. Gogoi, Sub-Section 3 of Section 22 provides for levy of interest on the shortfall of tax payable for the period prior to assessment. Such shortfall, in tax is to be considered as tax payable for such period and accordingly interest is payable from the due date of payment of such tax till the end of the month prior to such assessment. According to him, after reassessment additional taxes were found to be payable and such taxes were paid after due date and therefore the interest was levied in terms of sub section 3 of section 22 on the tax paid after due date.

IV. Accordingly, Mr. Gogoi argues that the interest was levied for delayed payment of tax on the value addition part of BRPL products, which was not paid originally but after due date of payments. He also contends that the petitioner is also aware of such provision and accordingly, paid the interest amount along with the tax due and however subsequently challenged the levy on a wrong notion.

V. While concluding his argument Mr. Gogoi submits that the action of the Deputy Commissioner of Taxes and of the Assistant Commissioner of Taxes are fully justified and such actions are not only within the ambit of the statute but also in terms of section 22 of the AGST Act.

6. This court has given anxious consideration to the arguments advanced by the learned counsel for the parties and also gone through the materials available on record.

7. The Hon'ble Apex court remanded the matter to the assessing authority to resolve the factual controversy whether the appellate company had collected sales tax from consumers through various dealers on entire resale price and if the answer is yes, the appellant company would liable to deposit entire sales tax amount collected from the consumers along with 9% interest from the date of collecting the amount towards the sales tax. It is apposite to mention herein that the earlier assessments as well as the notices of demand were set aside by the Hon'ble Apex Court. The determination made by the Hon'ble Apex Court can be summarised as follows:

I. A conjoint reading of section 8(1) of the Act and explanations 1 and 2 clearly lead to a conclusion that the second point of sale was shifted as first point of sale, if resale price of a dealer exceeded 40% of the purchase price. In the case in hand, resale price of dealer exceeded 40% of the purchase price, therefore, the resale price was deemed to be first point of sale.

II. Sub-section 1 of section 8 did not envisage double taxation in the same state. The appellant company had paid sales tax on purchase of petroleum products from BRPL. Under the scheme of the Act, 1993, the sales tax would be leviable only on the difference of resale price and purchase price, since under sub-section 1 of section 8 of the act, 1993, the tax is levied at the first point of sale.

III. The appellant company had purchased goods

from BRPL and admittedly paid sales tax on the said purchase. Therefore, the Indian Oil Corporation is under an obligation to pay sales tax only on the difference amount between the purchase price and the entire sales price.

IV. Imposing sales tax on the entire amount resold would amount to double taxation.

V. It was claimed by the appellant company that the company had not collected any amount by way of sale in their vouchers and sale made by them was out of the purchase made from BRPL. On the other hand, it was alleged by the authorities that appellant company had collected sales tax from consumers through various dealers on entire resale price and therefore, it is not possible for the Supreme Court to resolve such factual controversy and accordingly, the matter was remitted to the Senior Superintendent of Taxes for ascertaining the fact whether the appellant company had in fact collected sales tax on the entire sales as alleged by the respondents.

VI. In the event it is concluded that the company had collected sales tax on the entire sales, then the appellant company would deposit the entire sales tax amount collected from the consumers with the respondent state within four weeks from the order passed by the Senior Superintendent of Taxes along with 9% interest from the date of collecting the amount towards the sales tax.

8. The fact also remains that pursuant to such

determination, assessment was made and it was found that the petitioner company had not collected any amount by way of sales tax, however, it was held that the company was liable to pay tax on difference between the resale price and the purchase price only and interest @ 24% on the difference amount between the resale price and the purchase price was levied on the ground of delayed payment.

9. The Division Bench, while judicially reviewing such assessment order, after elaborately dealing with section 22 of the Act, 1993, under its order dated 11.03.2015, made a determination that the earlier assessment orders and demand notice passed were set aside by the Supreme Court with a direction for de novo assessments and after de novo assessment, it is found that there is nil demand for the assessment years. Therefore, the question of payment of interest for the nil demand does not arise.

10. So far the assessment, relating to the present batch of writ petitions, same was remanded back by this court to determine as to whether there was any tax liability preceding the demand notices and whether the difference of liability is more than 10% between the returns and demand notice and accordingly it was directed to verify and pass fresh orders in accordance with law under section 22 of the Assam General Sales Tax Act, 1993.

11. Section 22 of the Act deals with payment of interest by dealer. The said provision mandates for payment of interest in the following circumstances:

I. Sub section (1) of Section 22 deals with the

situation where the assessee does not pay the tax as per the returns or if there is any deficit payment of tax, interest on deficit amount becomes payable.

II. Sub-section 2 deals with the situation where after assessment if it is found that demand notice is issued and if there is any deficit payment which falls short of the amount claimed in the notice, the interest becomes payable.

III. Sub-section 3 deals with the situation where the assessing authority finds that the turn over stated in the returns is found to be incorrect and the amount mentioned in the demand notice succeeding the assessment is more than 10% the interest becomes payable.

12. Section 16 of the Act, 1993 deals with payment of tax and return. The said provision envisages paynment of tax and submission of return in the following manner.

I. Section 16(2) mandates for payment of tax to be accompanied by a statement in prescribed form of the turnover of sales or of purchases in respect of which the tax is paid.

II. Section 16(3) empowers the assessing officer to issue notice to the dealer to furnish additional statement beyond the statement furnished under section 16(2). When the additional statement/return within time under section 16(3) or if any omission or other error is discovered, the dealer may furnish return or revise the return before the

assessment is made subject to accompanying by receipt showing payment of tax due, if any on the basis of such return.

13. The division bench in its judgment and order dated 11.03.2015 passed in WP(C) 1279/2008 and other connected cases, at paragraph 5 dealt with the provisions of Section 22 of the Act and at paragraph 6 laid down a proposition that when earlier assessment orders and demand notice were set aside by the supreme court and after de novo assessment it is found that there is nil demand for the assessment year, the question of payment of interest for the nil demand does not arise. Exactly similar is the case in the present batch of writ petitions.

14. The initial notices were issued in the year 1996 in all the cases including the earlier litigations to produce books of accounts and records in connection with the purchase and sale of their products. Subsequently in the month of March 1996, the petitioner company was asked to show cause as to why penal action should not be initiated. Subsequently, assessment order was passed in the month of July 2001 and appeal challenging such assessment order by the appellate company were dismissed in the month of April 2002. The Hon'ble Apex Court on 27.11.2006 set aside the aforesaid notices and assessments made. However, in between i.e., after the appellate order dated 22.04.2002 and prior to passing of the judgment by the Hon'ble Apex court on 27.11.2006, the company on 05.06.2002 deposited the amount without prejudice to the pending litigation in the Hon'ble Apex Court and also paid an

interest @ 10.5%.

15. However, in the case in hand, the impugned assessment order shows that after the order of the Hon'ble Apex court, the balance due was nil. However, taking recourse to sub-section 3 of section 22, the interest was imposed on the ground that amount due was paid subsequent to its due date. To summarise it is the contention of the assessing authority that though after the order of the Hon'ble Apex court there was no balance due however, the entire due was paid subsequent to the date it has fallen due and therefore, interest was leviable under section 22(3) of the Act.

16. The appellate authority took a view that when this court under its order 11.03.2015 remanded the matter after reassessment the authority is within its competent jurisdiction to make assessment on its own.

17. The initial notices were issued in the year 1996 to produce books of accounts and records in connection with purchase and sale of their bill products and subsequently in the month of March 1996, the petitioner company was asked to show cause why penal action should not be initiated. Subsequently, assessment order was passed in the month of July 2001 and appeal challenging such assessment order by the appellate company were dismissed in the month of April 2002. The Hon'ble Apex Court on 27.11.2006 set aside the aforesaid notices and assessments made. However, in between i.e., after the appellate order dated 22.04.2002 and prior to passing of the judgment by the Hon'ble Apex court on 27.11.2006 the company on 05.06.2002

deposited the amount without prejudiced to the pending litigation also paid interest @ 10.5%.

18. However, as discussed hereinabove, the said assessment orders were set aside by the Division Bench in its order dated 11.03.2015 and in that background the Division Bench held that once the assessment order of the authorities are set aside and matter is remanded back and on assessment, no taxable due was found, no interest can be levied.

19. Thus in the aforesaid factual background, this court is of the considered opinion that the determination made by the Division Bench shall be binding upon this court. It is well settled that to maintain certainty, stability and consistency in the legal system, the courts generally abide by the things/issues already decided. Legal principles or rules that have been created by the earlier decision of this court should be respected and followed touching similar legal issues and the same should guide the subsequent decisions. Court must follow decisions made earlier in subsequent cases where the same legal issues are brought before it.

20. In the case ***of Hari Singh Vs. State of Haryana*** reported in ***(1993) 3 SCC 114***, it was held that in a judicial system that is administered by court, one of the primary principles to keep note of is that the court under the same jurisdiction must have similar opinions regarding similar questions, issues and circumstances. If opinions given on similar legal issues are inconsistent then instead of achieving harmony in the judicial system, it will result in judicial chaos. The decision regarding a

particular case that has hold the field for a long time cannot be disturbed merely because of possibility of the existence of another view. Such principle promotes consistent development of legal principle and preserves integrity of judicial process.

21. Therefore, in the considered opinion of this court, such decision of the Division Bench is binding upon this court inasmuch as, the facts are exactly similar and in the present case also the deposit was admittedly made in the year 2002 as that of the earlier litigation. Therefore, this court will have no scope at this stage to revaluate the contention of the state respondents made in these writ petitions inasmuch as the decision of the Division Bench was admittedly not interfered by the Hon'ble Apex court and challenge made to the same was dismissed by the Hon'ble Apex court.

22. In view of the aforesaid, the assessing officer and the appellate authority also could not have made the assessment for payment of interest/passed the order in derogation of determination made by the Division Bench in the Writ Petitions being WP(C) No.1279/2008, WP(C) No.1278/2008, WP(C) No.1282/2008, WP(C) No.1283/2008 WP(C) No.1305/2008

23. In view of the discussions and reasons made hereinabove, the impugned decisions to impose interest by the tax authorities are interfered with.

24. In the given facts of the present case the parties to bear their own cost.

JUDGE

Comparing Assistant