2025 INSC 719

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.4033 OF 2025**

**M/s. NARESH KUMAR GUPTA** **APPELLANT**

***VERSUS***

**STATE OF PUNJAB & ANOTHER** **RESPONDENTS**

**WITH**

**CIVIL APPEAL NO.4034 OF 2025**

**CIVIL APPEAL NO.4035 OF 2025**

**CIVIL APPEAL NO.4036 OF 2025**

**CIVIL APPEAL NO.4037 OF 2025**

**CIVIL APPEAL NO.4038 OF 2025**

**CIVIL APPEAL NO.4039 OF 2025**

**CIVIL APPEAL NO.4040 OF 2025**

**CIVIL APPEAL NO.4041 OF 2025**

**CIVIL APPEAL NO.4042 OF 2025**

**CIVIL APPEAL NO.4043 OF 2025**

**CIVIL APPEAL NO.4044 OF 2025**

**CIVIL APPEAL NO.4045 OF 2025**

**CIVIL APPEAL NO.4046 OF 2025**

**CIVIL APPEAL NO.4048 OF 2025**

**CIVIL APPEAL NO.4049 OF 2025**

**CIVIL APPEAL NO.4050 OF 2025**

**CIVIL APPEAL NO.4051 OF 2025**

**TRANSFERRED CASE(C) NO.41 OF 2023**

**TRANSFERRED CASE(C) NO.42 OF 2023**

**TRANSFERRED CASE(C) NO.43 OF 2023**

**TRANSFERRED CASE (C) NO.44 OF 2023**

**TRANSFERRED CASE(C) NO.7 OF 2024**

**TRANSFERRED CASE(C) NO.8 OF 2024**

**TRANSFERRED CASE(C) NO.9 OF 2024**

**TRANSFERRED CASE(C) NO.37 OF 2024**

# J U D G M E N T

## NAGARATHNA, J.

CIVIL APPEAL NO.4033/2025, CIVIL APPEAL NO.4035/2025, CIVIL APPEAL NO.4037/2025, CIVIL APPEAL NO.4039/2025, CIVIL APPEAL NO.4034/2025, CIVIL APPEAL NO.4038/2025, CIVIL APPEAL NO.4036/2025, CIVIL APPEAL NO.4045/2025, CIVIL APPEAL NO.4043/2025, CIVIL APPEAL NO.4040/2025, CIVIL APPEAL NO.4041/2025, CIVIL APPEAL NO.4042/2025, CIVIL APPEAL NO.4046/2025, CIVIL APPEAL NO.4048/2025, CIVIL APPEAL NO.4049/2025, CIVIL APPEAL NO.4050/2025, CIVIL APPEAL NO.4051/2025:

1. The above appeals are disposed of in terms of the following common judgment.

2. All the impugned orders in these Civil Appeals followed the result in ***Amrit Banaspati Company Ltd. vs. State of Punjab &***

***Others, Civil Writ Petition No.21811 of 2014 ("Amrit Banaspati")*** which was disposed of by a separate order and judgment dated 07.08.2015 by the High Court of Punjab & Haryana at Chandigarh. An appeal against the above judgment before this Court by the aforesaid assessee was dismissed as withdrawn *vide* order of this Court dated 04.05.2016 in SLP (Civil) No.26731 of 2015.

3. The common question of law arising in these appeals is whether the amendment to section 29 of the Punjab Value Added Tax Act, 2005 [henceforth "PVAT Act"] by the Punjab Value Added Tax Act, 2013 is constitutionally valid or not. For the sake of immediate reference, Section 29 of the PVAT Act, before and after it was amended, is extracted herewith:

| **Section 29(4) [before the amendment on 15.11.2013]** | **Section 29(4) [after the amendment on 15.11.2013]** |
|---|---|
| **29. Assessment of tax**.<br>***<br>(4) An assessment under sub section (2) or sub-section (3) may be made within three years, after the date when the annual statement was filed or | **29. Assessment of tax**.<br>***<br>(4) An assessment under subsection (2) or sub-section (3), may be made within *six* years after the date when the annual statement was filed or |

| **Section 29(4) [before the amendment on 15.11.2013]** | **Section 29(4) [after the amendment on 15.11.2013]** |
|---|---|
| due to be filed whichever is later.<br><br>Provided that where circumstances so warrant, the Commissioner may by an order in writing, allow assessment of a taxable person or a registered person after three years, but not later than six years, from the date, when annual statement was filed or due to be filed by such person, whichever is later. | due to be filed whichever is later.<br><br>Provided that *the assessment under sub section (2) or sub-section (3), in respect of which annual statement for the assessment year 2006-07 has already been filed, can be made till the 20th day of November, 2014*.<br><br>*Explanations:*<br><br>*(1) The limitation period of six years for an assessment under sub-section (2) or sub-section (3), shall also apply to those cases in which the aforesaid period of six years has yet not expired.*<br><br>*(2) It is clarified that prior to commencement of the Punjab Value Added Tax (Second Amendment) Act, 2013, the Commissioner was not required to issue any notice to the concerned person before extending the limitation period of assessment.*<br><br>***29(10A)***<br><br>*Notwithstanding anything to the contrary contained in any judgment, decree or order of any Court, tribunal or other authority, an order passed by the Commissioner under* |

| Section 29(4) [before the amendment on 15.11.2013] | Section 29(4) [after the amendment on 15.11.2013] |
|---|---|
| | *subsection (4) prior to commencement of the Punjab Value Added Tax (Second Amendment) Act, 2013, shall not be invalid on the ground of prior service of notice or communication of such order to the concerned person.* |

4. The aforesaid amendments to Section 29 of PVAT Act were challenged by the appellants herein before the Punjab and Haryana High Court on the grounds that i) they were prospective; and if not, then ii) they reverse/over-rule several judgments of the High Court; iii) Explanation (2) is contrary to principles of natural justice; iv) they violate Articles 14 and 19 of the Constitution; v) they extend the period of reassessment even where the original period for assessment has expired; and vi) the proviso to the amended section 29(4) is contrary to the main section.

5. The High Court, *vide* the judgment dated 07.08.2015 in ***Amrit Banaspati,*** observed that the amendment cannot by any stretch of imagination be held to be so unreasonable or excessive as to warrant it being declared invalid. On a survey of cases, it

highlighted that the principle was that the proceedings which have attained finality under the existing law due to a bar of limitation cannot be held to be open for revival unless the amended provision is clearly given a retrospective operation so as to allow unsettling of proceedings, which had already been concluded and attained finality. That the purpose and effect of the entire amendment was to obviate the consequences of the proviso to the unamended section. Following the above judgment, the High Court dismissed the writ petitions filed by the appellants herein.

6. Aggrieved by the impugned orders of the High Court, the appellants have approached this Court by preferring these appeals.

7. We have heard learned senior counsel for the appellants and learned counsel for the State, learned senior counsel and learned counsel for the respective appellants and learned A.A.G. for the respondent-State and perused the material on record.

8. The statement of objects and reasons for bringing forth an amendment to section 29 of the PVAT Act, 2005 by the Punjab Value Added Tax Act, 2013 is extracted as follows:

"Amendment in Section 29 of the Punjab VAT Act, 2005:

Due to the provision of self-assessment in Punjab Value Added Tax Act, 2005, cases are selected by the Departmental Officers for the assessment on the basis of certain risk parameters or in which revenue is involved. According to Section 29(4), the assessment of a case has to be framed within 3 years of filing the Annual Statement. It is pertinent to mention here that due to heavy work load and shortage of staff in the Department, by the time the Designated Officer detects a tax due in a particular case, the limitation period of 3 years is near to end. The Commissioner has the power to extend the period of assessment upto 6 years. By exercising this power, limitation periods were extended by the Commissioner in respect of various years which led to a lot of litigation. The Hon'ble High Court and the Hon'ble VAT Tribunal have quashed many such extension orders on technical ground of no prior service of notice to the concerned person before passing an order of such extension of limitation period and not passing individual orders, resulting in a huge revenue loss. Therefore, in order to safeguard the Revenue on account of cases becoming time barred and to undo the effect of the judgment dated 01.09.2009 of the Hon'ble High Court in case of A.B. Sugars Ltd. it has become necessary and expedient to amend sub-Section 4 of Section 29 and insert sub section (10-A) in Section 29 of the Punjab VAT Act, 2005."

9. On a perusal of the un-amended Section 29 of the Act and its amended version, it is evident that under the un-amended provision, the initial limitation period of three years could be extended to six years by the Commissioner by an order in writing where circumstances so warranted. According to the legislature, as

expressed in the Statement of Objects and Reasons, *firstly,* by the time a Designated Officer detected a tax due in a particular case, the limitation period of three years would near its end. *Secondly*, the order of the Commissioner extending the limitation period to six years had been a subject matter of litigation before the High Court in several cases, which had resulted in huge revenue loss. It was to obviate such consequences that the Legislature of the State of Punjab thought it fit to amend Section 29 of the PVAT Act.

10. The High Court, vide impugned judgment dated 07.08.2015, found this amendment as not so unreasonable or excessive as to warrant it being declared invalid. It held that the proviso itself establishes that the opening part of the amended Section 29(4) is retrospective and that to construe the opening part of Section 29(4) as being prospective would render the proviso and Explanation (1) thereto otiose. It noted that a legislature has the power to enact the laws, including laws dealing with taxation, with retrospective effect.

11. Further, the High Court held that the legislature giving its own meaning or interpretation to a provision through a legislative

fiat does not encroach upon the Courts' domain to interpret the laws enacted by it. That the legislature could have done so originally or subsequently by an amendment which could be both prospective and retrospective. It held that sub-section (10A) to Section 29 of the PVAT Act must be read along with the rest of the Section and if read so, it would be clear that the defect in the actions i.e. the manner in which the proviso to the unamended Section 29(4) was implemented is removed.

12. The High Court also observed that the clarification provided in Explanation 2 to the amended Section 29 of the PVAT Act does not amount to a declaration that the judgments passed by it based on the unamended Section 29 of the aforesaid Act were wrong. It held that the legislature has simply removed the basis on which those judgments were rendered and that the legislature was well within its powers to do so.

13. To the question whether by an amendment the Legislature could extend the period for assessment even though the original period for assessment had expired, the High Court relied on the judgment of this Court in ***Additional Commissioner (Legal) &***

***Another v. Jyoti Traders & Another, (1999) 2 SCC 77,*** to answer in the affirmative. In that case, the impugned provision before amendment provided for a limitation of four years and the amended provision increased the same to eight years. The assessment year in that case was 1985-86 and the amendment came into force in 1991. Hence, the four-year period originally prescribed would have expired prior to the date of the amendment. Despite the same, this Court held that the amendment was applicable to the assessees.

14. For the above reasons, we hence do not find any reason to interfere with the impugned orders of the High Court. In the circumstance, the Civil Appeals stand dismissed. We reiterate the liberty reserved by the High Courts in ***Amrit Banaspati.***

15. However, liberty is reserved to the appellant/assessee(s) to avail the appellate remedy if so advised within a period of three months from today. If such an appellate remedy is availed by the appellants herein, the State as well as the Appellate Authorities shall not raise the issue of limitation. It is needless to observe that the appeals so filed shall be disposed of in accordance with law.

16. We have heard the arguments advanced at the bar by learned senior counsel for the appellant-assessee(s) and learned senior counsel and learned A.A.G. appearing for the State of Punjab and learned counsel for Union Territory of Chandigarh at length. Bearing in mind the controversy in these cases arising from State of Punjab and Union Territory of Chandigarh only are concerned, we find that the judgment of this Court in ***State of Punjab vs. Nokia India Pvt. Ltd., (2014) 16 SCC 410 ("Nokia"),*** is heavily relied upon by the learned Additional Advocate General (AAG) appearing for the State of Punjab and learned ASG appearing for Union Territory of Chandigarh. However, learned senior counsel appearing for the appellants have sought to distinguish the ratio of the said judgment of this Court in ***Nokia***, insofar as the matters pending before this Court are concerned, by placing reliance on the judgment of the Allahabad High Court in ***M/s. Samsung (India) Electronics Pvt. Ltd. vs. Commissioner of Commercial Tax, UP***

bearing ***STRP NO. 479/2017 and connected matters*** disposed of on 18.01.2018, which judgment we have affirmed by our order dated 20.02.2025, as well as the judgment passed by Karnataka High Court in ***State of Karnataka & Another vs. Intex Technologies India Ltd.*** bearing ***STRP NO.8/2022*** disposed of on 10.02.2023.

17. We, hence, propose to make the following order in these cases:

(a) Insofar as the State of Punjab as well as the Union Territory of Chandigarh are concerned, the judgment of this Court in ***Nokia*** is in favour of the Revenue and bearing in mind the quantum of taxes that have to be paid by the appellant-assessee(s), we do not intend to consider the correctness, or otherwise of the said judgment of this Court as sought to be persuaded by learned senior counsel Sri Datar appearing for the appellants. This is for the pertinent reason that the period under controversy is related to only the Assessment Years from 2005-2006 to 2011-2012 insofar as the State of Punjab is concerned and Assessment Years from 2009-2010 to 2015-2016 insofar as the Union Territory of Chandigarh is concerned.

(b) Since we are not going into the correctness or otherwise of the judgment of this Court in ***Nokia,*** we direct the appellants herein to pay the outstanding tax dues. The said payment shall be restricted only to the principal amount of tax dues and shall not include interest and penalty therein insofar as these cases are concerned.

(c) For the sake of clarity, we observe that since the judgment of this Court in ***Nokia*** is now being restricted to the Act applicable in State of Punjab and the Act applicable in the Union of Territory of Chandigarh, the said judgment may not be a binding precedent insofar as other States' enactments are concerned. In other words, liberty is reserved to any aggrieved party to contend that the judgment of this Court in ***Nokia*** is not applicable and therefore could be distinguished.

The aforesaid directions have been issued bearing in mind the fact that from the year 2013 onwards, in the State of Punjab there have been amendments made to the State Acts.

(d) Consequently, the Civil Appeal and the Transferred Cases filed by the assessees as against the State of Punjab and the Union

Territory of Chandigarh are disposed of in the aforesaid terms, and only the principal amount of outstanding tax dues shall be paid by the appellant-assessee(s) on or before 30.06.2025.

(e) Insofar as the matters which have been disposed of by this Court and also in the cases which are pending before the Punjab and Haryana High Court or before any other appellate or Assessing Authority insofar as the State of Punjab and Union Territory of Chandigarh are concerned, the aforesaid order is also subject to the result of the cases pending consideration in Civil Appeal No.4033 of 2025 and connected cases which are pending before this Court.

(f) Insofar as the transferred cases arising from State of Andhra Pradesh are concerned, since the provision to be considered may be distinguished and the judgment of this Court in ***Nokia*** may not be applicable, we reserve liberty to the appellants to contend that the judgment of this Court in ***Nokia*** may not be applicable to their cases by placing reliance on the judgments of the Allahabad High Court as well as the judgment of the Karnataka High Court referred to above, as affirmed by this

Court, and bearing in mind the provisions to be considered under the applicable Acts and Rules of general interpretation, if applicable, in the State of Andhra Pradesh, and to raise any other contention that is available to the parties, in accordance with law.

(g) Insofar as the Transferred Cases arising from the High Court of Andhra Pradesh at Amravati are concerned, those cases are re-transferred and restored on the file of the High Court for being considered and disposed of in accordance with law including remanding the matters to the concerned Revenue officers or reserving liberty to the appellants herein to avail the appellate remedy.

(h) Alternatively, the Andhra Pradesh High Court may hear the matters on the issues which are raised by the assessees bearing in mind the observations made above. In case any aggrieved party before the High Court intends to avail the appellate remedy (alternate remedy), the issue of limitation shall not be raised by the appellate authority or by the respondent-State subject to the further orders to be passed by the said High Court.

(i) We again reiterate that we have made the aforesaid order having regard to the fact that we have restricted the ramification and implication of the judgment of this Court in ***Nokia*** to the relevant assessment years in the State of Punjab and Union Territory of Chandigarh only.

(j) Consequently, the binding effect of the said dictum insofar as other States' enactments are concerned may not arise, particularly if the provisions are different from those under the Punjab Act and the Act applicable in the Union Territory of Chandigarh.

(k) It is needless to observe that liberty is reserved to any aggrieved party to contend that the judgment passed by this Court in ***Nokia*** is not applicable and is distinguishable in any other State.

Insofar as the cases arising from Andhra Pradesh are concerned, liberty is reserved to the State/Revenue to place reliance on the judgment of this Court in ***Nokia.***

(l) The aforesaid appeal and the transferred cases are disposed of in the aforesaid terms.

(m) The Registry of this Court is directed to intimate this order to the Registry of the High Court of Andhra Pradesh and also to take steps for smooth transfer of these cases so as to be restored on the file of the Andhra Pradesh High Court as expeditiously as possible.

(n) Having regard to the long pendency of the matters before the High Court and the subsequent restoration of the cases before the High Court of Andhra Pradesh, we request the High Court to expedite the hearing and disposal of these cases.

Pending application(s), if any, shall stand disposed of.

**.....J.**
**(B. V. NAGARATHNA)**

**.....J.**
**(SATISH CHANDRA SHARMA)**

**NEW DELHI;**
**MAY 01, 2025**