tax for similar transactions. The Karnataka High Court as well following judgment in **Steel Authority of India Limited's** case (supra) and **Nathpa Jhakri Joint venture's** case (supra) struck down the provision opining the same to be beyond the purview of the State legislature. To similar effect is the judgment of Jharkhand High Court again in the case of **Larson and Toubro Limited's** case (supra).

(27) If the enunciation of law as referred to above is considered in the fact and circumstances of the present case, the inescapable conclusion is that the provisions of Section 10C of the Act which are para materia to the provisions, which were struck down by Hon'ble the Supreme Court and various High Courts, have to be declared ultra vires to the Constitution of India as the same is clearly beyond the competence of the State legislature.

(28) Accordingly, Section 10C of the Punjab General Sales Tax Act, 1948 is declared to be ultra vires. The amount of tax deducted in the account of the petitioners is directed to be refunded forthwith.

R.N.R.

Before Hemant Gupta & Rajesh Bindal, JJ.

M/S STELCO STRIPS LTD.,—***Petitioner***

versus

STATE OF PUNJAB AND OTHERS,—***Respondents***

C.W.P. No. 14885 of 2004

22nd August, 2008

Constitution of India, 1950—Art. 226—Punjab General Sales Tax Act, 1948—S.14-B(7)(ii)(iii)—Detention of goods and vehicle—Petitioner submitting his explanation—Competent authority taking no final decision for about a year—Time limit of 14 days prescribed for Officer to complete quasi—judicial proceedings—Whether provisions of S.14-B(7)(ii) and (iii) that proceedings shall be decided within a period of 14 days from commencement of enquiry proceedings are directory or mandatory—Officer entrusted with duty of adjudication may have certain limitations to decide such

cases of evasion of tax within 14 days either on account of large number of cases or otherwise-Principles of natural justice also required to be complied with—Failure to complete adjudication process within 14 days will only give premium to action of tax evader, therefore, provisions of S.14-B(7)(ii) and (iii) are directory in nature and consequently failure to decide such proceedings within time prescribed will not result into abatement of proceedings.

Held, that Section 14-B(6) of the State Act contemplates for release of the goods and vehicle within 72 hours. The said provision has been enacted so as not to hinder the movement of the goods and the vehicle even if there is allegation of evasion of tax. Once there is a provision for release of the goods and the vehicle, the conclusion of enquiry proceedings within 15 days is to impose a duty on the enquiry officer to complete the proceedings expeditiously but it does not follow that any departure from it shall taint the proceedings with fatal blemish. The provision is more by way of procedure to achieve the object of speedy disposal of such disputes. It is an expression desirability in strong terms. But it falls short of creating any kind of substantive right in favour of the petitioner so as resulting into adjudicating proceedings pertaining to evasion of tax as abated.

(Para 24)

Futher held, that the provisions of Section 14-B have been enacted for avoiding evasion of tax during the course of movement of goods from one State to another. For facility of movement, the provision of releasing of the goods and the vehicle ensures the release of the goods and the vehicle within 72 hours but the adjudication process of evasion of tax is dependent upon number of factors including cooperation of consignor or consignee, as the case may be. The principles of natural justice are also required to be complied with. The officer entrusted with the duty of adjudication may have certain limitations to decide such cases of evasion of tax within 14 days either on account of large number of cases or otherwise. Keeping in view the tests laid down in **P.T. Rajan** *versus* **T.P.M. Sahir and others, (2003) 8 SCC 498** and number of judgments, the adjudication process is a public duty cast on a public officer for a public good. The purpose is to check evasion of tax. Failure

to complete the adjudication process within 14 days will only give permium to the action of the tax evador. Therefore, the provisions of Section 14-B(7)(ii) and (iii) of the State Act are directory in nature and consequently failure to decide such proceedings within the time prescribed will not result into abatement of proceedings.

(Paras 25 & 26)

D.S. Brar, Advocate, *for the petitioner.*

Piyush Kant Jain, Addl. Advocate General, Punjab, *for respondents.*

HEMANT GUPTA, J.

(1) This order shall dispose of Civil Writ Petition Nos. 14885 of 2004; 5372 and 5417 of 2005; 3837 and 3867 of 2006; and 7078 of 2007 raising same question, "Whether the provisions of Section 14-B (7)(ii) and (iii) of the Punjab General Sales Tax Act, 1948, providing that proceedings shall be decided within a period of 14 days from the commencement of enquiry proceedings are directory or mandatory. The relevant facts to determine the above-said legal question are being taken from CWP No. 14885 of 2004.

(2) The petitioner is a firm registered under the Punjab General Sales Tax Act, 1948 (for short "the State Act") and Central Sales Tax Act, 1956 (hereinafter to be referred as "the Central Act"). The petitioner dispatched mill parts to Pondy Technologists Limited on 5th June, 2003 in truck No. NL-01A-6467 on 5th June, 2003 accompanied by valid bill and goods receipt. However, such consignment was detained by the Incharge, Information Collection Centre. The order of detention of goods and vehicle was passed on 5th June, 2003. The petitioner submitted his written explanation and documents on 9th June, 2003. However, no final decision was taken by the competent authority. The goods were released against surety bonds and proceedings were sent to the Assistant Excise and Taxation Commissioner on 7th July, 2003 for taking action under section 14-B (7)(ii) of the State Act. The proceedings could not be finalised but after joining of the officer Shri Amrik Singh, Assistant Excise and Taxation Commissioner, the

proceedings were re-initiated and finalised on 26th May, 2004 and a penalty of Rs. 9 lacs was imposed.

(3) The petitioner has challenged the said order in the present writ petition on the ground that such order could not have been passed after the expiry of 14 days of seizure of the goods and the vehicle, which is on 5th June, 2003, in terms of Section 14-B(7)(ii) and (iii) of the State Act.

(4) A Division Bench of this Court reported as **Amrit Banaspati Company Limited** *versus* **State of Punjab and others (1),** considered the legality and validity of section 14-B of the State Act. While upholding the legality and validity of section 14-B of the State Act as amended up to notification 29th September, 1999, this Court observed, "we also hope that the State would make appropriate provision for laying time schedule for passing of order under section 14-B(7)(iii)". It was in pursuance of such observation of this Court, time limit of 14 days was inserted,—*vide* Punjab Act No. 15 of 2003.

(5) Section 14-B of the State Act, as amended, provided for the establishment of Check-post or Information Collection Centre and inspection of goods in transit with a view to prevent or check avoidance or evasion of tax under the State Act. Sub-section (6)(i) of the State Act contemplates that if the officer in-charge of the check-post or information collection centre or any other officer as mentioned in sub-section (2), has reasons to suspect that the goods under transport are meant for trade and are not covered by proper and genuine documents then the officer for reasons to be recorded in writing and after hearing the person concerned, order the detention of the goods along with the vehicle for such period, as may reasonably be necessary. Such goods shall be released on furnishing of security or executing a bond in the manner prescribed by the consignor or consignee, if registered under the Act to the satisfaction of the officer detaining the goods but if the consignor or the consignee is not registered under the Act, then on furnishing of security in the form of cash or bank guarantee or crossed bank draft, which shall be thirty percent of the value of the goods. However, sub-section (7) contemplates that the officer detaining the

(1) (2001) 122 S.T.C. 323

goods shall record the statements, if any, given by the consignor or consignee of the goods or his representative or the driver or other person in-charge of the goods vehicle so as to prove the genuineness of the transaction within a period of 72 hours of the detention. The said officer shall immediately thereafter submit the proceedings alongwith the concerned records to such officer, as may be authorised in that behalf by the State Government for conducting necessary enquiry in the matter. The officer authorised by the State Government is required to serve a notice on the consignor or the consignee of the goods detained and after giving an opportunity of being heard, pass an order of penalty and release of the goods and the vehicle. Such order is required to be passed after recording reasons and within a period of 14 days of commencement of the enquiry proceedings. The relevant extract from section 14-B of State Act reads as under :—

"Section 14-B

Establishment of Check Posts of Information Collection Centres and Inspection of goods in transit :

(1) to (6) xx xx xx xx

(7)(i) The officer detaining the goods under sub-section (6), shall record the statement, if any, given by the consignor or consignee of the goods or his representative or the driver or other person-in-charge of the goods vehicle and shall require him to prove the genuineness of the transaction before him in his office within a period seventy two hours of the detention. The said officer shall, immediately thereafter, submit the proceedings along with the concerned record to such officer, as may be authorised in that behalf by the State Government for conducting necessary enquiry in the matter.

(ii) The officer authorised by the State Government shall, before conducting the enquiry, serve a notice on the consignor or the consignee of the goods detained under

clause (i) of sub-section (6), and give him an opportunity of being heard and if, after the enquiry, such officer finds that there has been an attempt to avoid or evade the tax due or likely to be due under this Act, he shall, by order, impose on the consignor or consignee of the goods, a penalty, which shall not be less then twenty per cent and not more than thirty per cent of the value of the goods and in case he finds otherwise, he shall order the release of the goods and the vehicle, if not already released, after recording reasons in writing and shall decide the matter finally within a period of fourteen days from the commencement of the enquiry proceedings.

(iii) The officer referred to in clause (ii), before conducting the enquiry, shall serve a notice on the consignee of the goods, detained under clause (ii) of sub-section (6) and give him an opportunity of being heard and if, after the enquiry, such officer is satisfied that the documents as required under sub-section (2) and sub-section (4), were not furnished at the information collection centre or the check post, as the case may be, with a view to attempt to avoid or evade the tax due or likely to be due under the Act, he shall by order for reason to be recorded in writing, impose on the consignor or the consignee of the goods, penalty equal to fifty per cent of the value of the goods involved. In case, he finds otherwise, he shall order release of the goods for sufficient reasons to be recorded in writing. He may, however, notwithstanding anything contained in clause (ii) of sub-section (6), order release of the goods and vehicle on furnishing a security by the consignor or the consignee in the form of cash or bank guarantee or crossed bank draft for an amount equal to the amount of penalty imposeable and shall decide the matter finally within a period of fourteen days from the commencement of the enquiry proceedings; and

(iv) xx	xx	xx	xx
(8) to (11)	xx	xx	xx"

(6) Learned counsel for the petitioner has vehemently argued that the provisions of Section 14-B (7)(ii) and (iii) of the State Act were amended after directions were issued by this Court providing time limit for completion of enquiry proceedings, therefore, failure to decide within the time prescribed will result into abatement of the proceedings. After the period prescribed, the penalty cannot be imposed. It is contended that such provisions are mandatory in nature. No order of penalty or forfeiture of goods can be passed after the expiry of prescribed period under Section 14-B (7)(ii) and (iii) of the State Act. Learned counsel for the petitioner relied upon judgment of this Court reported as **The State of Haryana** *versus* **Rajeshwar Parshad (2),** and Single Bench judgment of this Court reported as **Hardit Singh, Bhagat Singh** *versus* **The Excise and Taxation Officer, Assessing Authority, Ludhiana (3),** and of Calcutta High Court in **State of West Bengal and others** *versus* **Sarda and Sons (4).**

(7) On the other hand, learned State counsel has relied upon **Topline Shoes Ltd.** *versus* **Corporation Bank, (5) P.T. Rajan** *versus* **T.P.M. Sahir and others (6), V.K. Verma** *versus* **The Hindustan Machine Tools Limited, Pinjore and another (7),** to contend that the provisions of Section 14-B (7)(ii) and (iii) of the State Act are directory in nature. The Excise and Taxation Officer while discharging the duties of an officer competent to levy penalty acts as a quasi Judicial Officer, therefore, failure to pass an order within 14 days will not result into abatement of proceedings.

(8) We have heard learned counsel for the parties at length. In **Rajeshwar Parshad's case** *(supra),* a Division Bench of this Court was seized of an appeal against the acquittal of the respondents under

(2) (1978) 42 S.T.C. 196
(3) (1982) 49 S.T.C. 56
(4) (1977) STC 419
(5) (2002) 6 S.C.C. 33
(6) (2003) 8 S.C.C. 498
(7) 1993 (2) PLR 762

sections 353/186 read with section 34 of the Indian Penal Code. The trial Court had acquitted the accused. The issue examined in appeal before this Court was whether a duty is cast on the officer seizing any book, account, register or document to grant a receipt for the same forthwith and if the document seized relate to the current period to return them after ten days and to return them within a period of 60 days if they are of some different nature. It was found that the provision regarding the compulsory return of the books after a specific period gives an indication that this provision should be held mandatory. In case, it is held directory in nature, this will entail untold hardships to the business community. The scope of appeal and the issue raised is materially different than the one raised in the present petition i.e., whether the period of 14 days for completion of quasi judicial proceedings is mandatory or directory.

(9) In **Emkary Industries's case** *(supra),* challenge was to the provisions of Section 11 of the State Act as was substituted,—*vide* Punjab General Sales Tax (Amendment) Ordinance 1 of 1998 followed by Punjab General Sales Tax (Amendment) Act 12 of 1998. The Amending Act provides that the order of assessment shall be passed on the basis of such return within a period of three years from the last date prescribed for furnishing of last return in respect of such period. The only argument before the Bench was that such amendment would not be applicable to the assessment year prior to the date of issue of notification and that Amending Section 11 of the Act is prospective and not retrospective. Such argument was accepted by holding that the substituted section 11 created a substantive right in favour of an assessee to get his assessment finalized within the time prescribed. No argument was raised or examined that the time limit of three years for completion of assessment is mandatory or directory. Since the issue raised was only in respect of retrospectively of the Amending Act, the said judgment is not relating to the questions raised in the present petition.

(10) In **Madan Lal Arora's case** *(supra),* again the question raised was whether the power to make best judgment assessment can be exercised only within three years. Hon'ble Supreme Court held that Section 11(4) deals with the case of a dealer who has furnished returns

in respect of a period and thereafter has been asked to produce evidence to support the returns but has failed to do so. It was held that the reason for such provision is that the correctness of the return has been doubted by the Assessing Authority, but the dealer has not availed himself of the opportunity afforded to him to remove the doubts. The sub-section provides that the power can be exercised within three years. In other words, the power cannot be exercised after three years having gone by. The said judgment is also not helpful to the controversy raised in the present petition. The question whether the period of three years is directory or mandatory was not raised.

(11) In fact, said question did not arise as the return filed was sought to be disputed by the Assessing Authority. As in the absence of best judgment assessment finalized by the Assessing Authority within the time prescribed, the return already filed would be deemed to be proper returns, whereas, in the case in hand, there is no return which can be said to attain finality. There is no past proceeding or the order which may regulate the question of assessment of goods in transit.

(12) The judgment in **Hardit Singh Bhagat Singh's case** *(supra),* pertains to a best judgment assessment under section 11(4) of the State Act and, therefore, in tune with the judgment in **Madan Lal Arora's case** *(supra),* whereas the judgment of the Calcutta High Court in **Sarda and Sons' case** *(supra)* pertains to Section 14(3A) of the Bengal Finance (Sales Tax) Act, 1941. The said provision contemplates that the period of retention of books and documents so seized can be extended from 21 days to one year. It was found that such provision is mandatory and non-compliance with them or the provisions thereunder would be fatal.

(13) The question whether provisions in a statute are directory or mandatory has very frequently arisen before the Courts in India. There is no general rule but in every case the object of the statute must be looked at. When the provisions of the statute relate to the performance of a public duty and the case is such that to hold null and void acts done in neglect of this duty would work serious general incovenience, or injustice to persons who have no control over those entrusted with

the duty and at the same time would not promote the main object of the Legislature, it has been a practice to hold such provisions to be directory only. The use of word "shall" in a statute, though generally taken in a mandatory sense, does not necessarily mean that in every case it shall have that effect, that is to say, that unless the words of the statute are punctiliously followed, the proceeding or the outcome of the proceeding, would be invalid. The Constitution Bench of Supreme Court in **State of U.P.** *versus* **Manbodhan Lal Srivastava (8),** has quoted the following quotation from Crawford on 'Statutory Construction' :—

> "The question as to whether a statute is mandatory or directory depends upon the intent of the Legislature and not upon the language in which the intent is clothed. The meaning and intention of the Legislature must govern, and these are to be ascertained, not only from the phraseology of the provision, but also by considering its nature, its design, and the consequences which would follow from construing it the one way or the other....."

(14) It was held that consultation of the Public Service Commission affecting a person serving the Government of India or a State Government are not mandatory in spite of the use of words "shall" therein.

(15) In **Banwari Lal Agarwalla** *versus* **State of Bihar (9),** Constitution Bench of Supreme Court held that no general rule can be laid down for deciding whether any particular provision in a statute is mandatory, meaning thereby that non-observance thereof involves the consequence of invalidity or only directory i.e., a direction the non-observance of which does not entail the consequence of invalidity, whatever other consequences may occur. But, in each case, the Court has to decide the legislative intent. The Court have to consider not on the actual words used but the scheme of the statute, the intended benefit to public of what is enjoined by the provisions and the material danger to the public by the contravention of the same.

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(8) AIR 1957 S.C. 912

(9) AIR 1961 S.C. 849

(16) In **State of Mysore** *versus* **V.K. Kangan (10),** Supreme Court held that in determining the question whether a provision is mandatory or directory, one must look into the subject-matter and the relation of that provision to the general object intended to be secured. It was held that, no doubt, all laws are mandatory in the sense they impose the duty to obey on those who come within its purview but it does not follow that every departure from it shall taint the proceedings with a fatal blemish. The determination of the question whether a provision is mandatory or directory would, in the ultimate analysis, depend upon the intent of the law-maker. The said intention has to be gathered not only from the phraseology of the provision but also by considering its nature, its design and the consequences which would follow from construing it in one way or the other.

(17) In **Administrator, Municipal Committee Charkhi Dadri** *versus* **Ramji Lal Bagla (11),** Supreme Court ruled that absence of provision for consequence in case of non-compliance with the requirements prescribed would indicate directory nature despite use of word "shall". In **State of Jharkhand** *versus* **Ambay Cements (12),** it was ruled that whenever the statute prescribes that a particular act is to be done in a particular manner and also lays down that failure to comply with the said requirement would lead to severe consequences, such requirement would be mandatory.

(18) In **Union of India** *versus* **R.S. Saini (13),** Supreme Court held that the office memorandum fixing the time limit for completion of disciplinary proceedings is only a guideline and non-compliance of such office memorandum will not invalidate the order of punishment. The office memorandum cannot be construed as imposing a rigid time limit for the imposition of the order of imposition. In **Remington Rand of India Ltd.** *versus* **Workmen (14),** non-publication of award under the Industrial Disputes Act, 1947, within the period of thirty days would not render the award invalid. Non-publication of award within a period

(10) AIR 1975 S.C. 2190
(11) AIR 1995 S.C. 2329
(12) (2005) 1 S.C.C. 368
(13) 1991 Supp. (2) S.C.C. 151
(14) AIR 1968 S.C. 224

of 30 days does not entail any penalty and, therefore, the provision as to time in Section 17(1) is merely directory.

(19) In **Topline Shoe Ltd's case** *(supra),* Supreme Court negatived the argument raised that the State Commission constituted under the Consumer Protection Act, 1986, has no power to accept a reply filed beyond a total period of 45 days. It was held that such provision is not mandatory in nature. No penal consequences are prescribed and the period of extention of time "not exceeding 15 days", does not prescribe any kind of period of limitation. The provision is directory in nature. The provision is more by way of procedure to achieve the object of speedy disposal of such disputes. It is an expression of desirability in strong terms. But it falls short or creating any kind of substantive right in favour of the complainant by reason of which the respondent may be debarred from placing his version in defence in any circumstances whatsoever.

(20) In **V.K. Verma's case** *(supra),* this Court was examining an argument raised on the basis of Section 33(5) of the Industrial Disputes Act, 1947, contemplating that the authority should hear and decide the application within a period of three months. It also authorities the authority to extend the time. It was held to the following effect :—

> "Sub-section (5) makes it obligatory on the authority to hear the application without delay and pass appropriate orders. Sub-Section (5) does contemplate that the authority should hear and decide the application within a period of three months. However, it also authorises the authority to extend the time. It also provides that "no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed". It is thus clear that the provision embodies a Rule which is directory and not mandatory. While the authority is expected to decide the case expeditiously, the proceedings before it cannot be said to have lapsed merely on the ground that the case was not decided within three months. Each case has to be examined on its own facts. What is the position in the present case ?"

(21) In **P.T. Rajan's case** *(supra),* Supreme Court held that where a statutory functionary is aksed to perform a statutory duty within the time prescribed therefor, the same would be directory and not mandatory. It was held to the following effect :—

> **"45.** A statute as is well known must be read in the text and context thereof. Whether a statute is directory or mandatory would not be dependent on the user of the words "shall" and "may". Such a question must be posed and answered having regard to the purpose and object it seeks to achieve.
>
> **"46.** What is mandatory is the requirement of sub-section (3) of Section 23 of the 1950 Act and not the ministerial action of actual publication of Form 16.
>
> **"47.** The construction of a statute will depend on the purport and object for which the same had been used. In the instant case the 1960 Rules do not fix any time for publication of the electoral rolls. On the other hand, Section 23(3) of the 1950 Act categorically mandates that direction can be issued for revision in the electoral roll by way of amendment in inclusion and delection from the eletoral roll till the date specified for filing nomination. The electoral roll as revised by reason of such directions can, therefore, be amended only thereafter. On the basis of direction issued by the competent authority in relation to an application filed for inclusion of a voter's name, a nomination can be filed. The person concerned, therefore, would not be inconvenienced or in any way be prejudiced only because the revised electoral roll in Form 16 is published a few hours later. The result of filing of such nomination would become known to the parties concerned also after 3.00 p.m.
>
> **"48.** Furthermore, even if the statute specifies a time for publication of the electoral roll, the same by itself could

not have been held to be mandatory. Such a provision would be directory in nature. It is a well-settled principle of law that where a statutory functionary is asked to perform a statutory duty withn the time prescribed therefore, the same would be directory and not mandatory. (See *Shiveshwar Prasad Sinha versus District Magistrate of Monghyr, AIR 1966 Patna 144; Nomita Chowdhury* versus *State of W.B., (1999) 2 Cal. L.J., 21; and Garbari Union Coop. Agricultural Credit Society Ltd.* versus *Swapan Kumar Jana (1997) 1 CHN 189).*

"49. Furthermore, a provision in a statute which is procedural in nature although employs the word "shall" may not be held to be mandatory if thereby no prejudice is caused. (See *Raza Buland Sugar Co. Ltd.* versus *Municipal Board, Rampur, AIR 1965 SC 895; State Bank of Patiala versus S.K. Sharma, (1996) SCC 364; Venkataswamappa* versus *Special Dy. Commr. (Revenue), (1997) SCC 128 and Rai Vimal Krishna* versus *State of Bihar, (2003) 6 SCC 401).*"

(22) A Division Bench of this Court in **M/s Somany Pilkington's Ltd., Narain Industrial Area, Phase I, New Delhi** *versus* **The Commissioner of Income-tax (Haryana), Rohtak, ITR No. 40 to 41 of 1991, decided on 3rd December, 2004,** examined the provisions of Section 254(2A) of the Income Tax Act, 1961, which contemplated that the Appellate Tribunal may hear and decide the appeal within a period of four years from the end of the financial year in which such appeal is filed. This Court held to the following effect :—

"We may also notice sub-section (2A) of Section 254, which was inserted by Finance Act, 1999. The same reads as under :

"(2A) In every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within a period of four years from the end of the financial year

in which such appeal is filed under sub-section (1) of Section 253".

A careful reading of the provisions reproduced above, makes it clear that the time period of 4 years prescribed in sub-section (2) of Section 254 is directory in nature. It is settled that where a statutory functionary is asked to perform a statutory duty within the time prescribed therefore, the same would be directory and not mandatory—**Shiveshwar Prasad Sinha** *versus* **District Matistriate of Monghry, AIR 1966 Patna 144; Nomita Chowdhury** *versus* **State of West Bengal, (1999)2 Cal. L.J. 21; Garbari Union Coop. Agricultural Credits Society Ltd.** *versus* **Swapan Kumar Jana, (1997) 1 CHN 189; and Pt. Rajan** *versus* **T.P.M. Sahir and others, (2003) 8 SCC 498.**

The language of sub-section (2A), which has been inserted by Finance Act, 1999, makes it clear that the Legislature did not intend to make the time period of 4 years for disposal of the application as mandatory. This view of ours finds support from the principle stated in Halsbury's Laws of England in the following words :

"If public officials or a public body fail to perform any public duty with which they have been charged, an order of mandamus will lie to compel them to carry it out, even though the time prescribed by statute for the performance of the duty may have passed."

In view of the above discussion, we hold that failure of the Tribunal to decide an application made under section 254 (2) of the Act within 4 years did not denude it of the jurisdiction to decide the application on merits."

(23) Keeping in view the various judgements referred to above, it needs to be examined whether the time limit of 14 years contemplated for the Officer to complete the quasi judicial proceedings can be said to be mandatory.

(24) Section 14-B (6) of the State Act contemplates for release of the goods and vehicle within 72 hours. The said provision has been

enacted so as not to hinder the movement of the goods and the vehicle even if there is allegation of evasion of tax. Once there is a provision for release of the goods and the vehicle, the conclusion of enquiry proceedings within 15 days is to impose a duty on the enquiry officer to complete the proceedings expeditiously but it does not follow that any departure from it shall taint the proceedings with fatal blemish. The provision is more by way of procedure to achieve the object of speedy disposal of such disputes. It is an expression of desirability in strong terms. But it falls short of creating any kind of substantive right in favour of the petitioner so as resulting into adjudicating proceedings pertaining to evasionof tax as abated.

(25) The provisions of Section 14-B have been enacted for avoiding evasion of tax during the course of movement of goods from one State to another. For facility of movement, the provision of releasing of the goods and the vehicle ensures the release of the goods and the vehicle within 72 hours but the adjudication process of evasion of tax is dependent upon number of factors including co-operation of consignor or consignee, as the case may be. The principles of natural justice are also required to be complied with. The officer entrusted with the duty of adjudication may have certain limitations to decide such cases of evasion of tax within 14 days either an account of large number of large number of cases or otherwise. Keeping in view the tests laid down in **P.T. Rajan's case** *(supra)* and number of judgments referred above, the adjudication process is a public duty cast on a public officer for a public good. The purpose is to check evasion of tax. Failure to complete the adjudication process within 14 days will only give premium to the action of the tax evader.

(26) Therefore, we are of the opinion that the provisions of Section 14-B (7)(ii) and (iii) of the State Act are directory in nature and consequently failure to decide such proceedings within the time prescribed will not result into abatement of proceedings.

(27) In view of the above, we do not find any merit in writ petitions. The same are hereby dismissed.

R.N.R.