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WP-20081-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA,
ACTING CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 30th OF JUNE, 2026

WRIT PETITION No. 20081 of 2026

SONALI SOYA PVT. LTD. AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Mukesh Agrawal - Advocate for the petitioners.

*Shri Rajvardhan Dutt Padraha - Government Advocate for the
respondents/State.*

.....
ORDER

Per. Vivek Rusia, Acting Chief Justice

The petitioners have filed the present Writ Petition under Article 226 of the Constitution of India against the order dated 19.07.2012 passed under Section 62(3) of the M.P. Commercial Tax Act, 1994 read with Section 9(2) of the Central Sales Tax Act, 1994 & Section 28(1) of M.P. Commercial Tax Act, 1994 in Case No.4/RSM/12 Central by the Respondent No.2-Additional Commissioner, Commercial Tax Department, Jabalpur; order dated 14.10.2022 passed in Case No.2022/1018 by the Respondent No.3- Assistant Commissioner, Commercial Tax, Seoni and; order dated 02.01.2026 passed in Case No.01/2023 Central by the Respondent No.2.



Facts of the case, in short, are as under :-

2. The petitioner No.1-Sonali Soya Private Limited Company incorporated under the Companies Act in the month of June, 2002. The petitioner No.2- Sonali Soya Products was a partnership firm in existence before the formation of petitioner No.1-Company. In the year 2008, the petitioner No.1-Company was removed from the Register of ROC and is no more in existence and the present Writ Petition deals with Financial Year 2002-2003. Both the petitioner No.1-Company and petitioner No.2-Firm were engaged in business of manufacturing of oil from soyabean, flour made from husk of soyabean, etc.

3. The business of petitioner No.2-Firm was in existence upto 20.06.2002 and the business of petitioner No.1-Company came into existence from 20.06.2002. Vide order dated 30.01.2006 (Annexure P/4), the Petitioner No.2-Firm was originally assessed for the period 2002-2003 by the Adjudicating Authority vide which additional demand of Rs.3,15,51,100/- was raised.

4. Being aggrieved by the aforesaid original order of assessment dated 30.01.2006 for the period 2002-2003, the petitioner No.2-Firm filed a Revision Petition under Section 62(1) M.P. Commercial Tax Act, 1994 (for short "**the Act**") before the Respondent No.2-Additional Commissioner, Commercial Tax Department, Jabalpur. Vide order dated 22.02.2007 (Annexure-P/5), the Respondent No.2 set aside the original assessment order dated 30.01.2006 and remanded the matter back to the Assessing Officer for fresh adjudication.



5. In compliance of the order passed by the Additional Commissioner, the Adjudicating Authority passed fresh assessment (remand) order dated 26.07.2008 (Annexure P/6) in the name of petitioner No.1-Company seeking benefits of Notification dated 23.04.2002 (Annexure-P/10) bearing Notification No. 48 of exemption holding that Soya Flour is eligible for exemption. It is pertinent to mention that the original assessment order was made in the name of petitioner No.2-Firm whereas, the remand order was made in the name of petitioner No.1-Company.

6. Thereafter, certain objection were pointed out by the Accountant General, Gwalior in the remand order dated 26.07.2008 and in compliance to those objections, the Deputy Commissioner, Commercial Tax reopen the case under Section 28(1) of the Act and after examining the law laid down by the Board of Revenue in the case of "*S.M. Dyechem, Vidisha v. CCT, [(2001) 34 VKN 323 (Board)]*" held that Soya Flour is a flour exempted from the payment of sales tax. The said authority vide order dated 28.02.2011 (Annexure- P/7) passed reassessment order under Section 28(1) of the Act treating sale of Soya Flour is as exempted goods and consequently levied NIL Tax. However, the Revisional Authority exceeded its jurisdiction by taking cognizance of the matter under Section 28(1) of the Act for *suo moto* revision under Section 62(3) of the Act. While passing the order dated 19.07.2012 (Annexure - P/9) under Section 62(3) of the Act, the Authority imposed Central Sales Tax on the sale of Soya Flour @ 10% and also declined the benefit of exemption of treating soya flour as oil seed given under Notification No.48 dated 23.04.2002 issued by the Government.



7. According to the petitioner no.1, aforesaid order dated 19.07.2012 was never served on the petitioner and it came to its knowledge when the recovery proceeding was initiated by the respondent/Department. Against the aforesaid recovery proceedings, the petitioner no. 1 approached this Court by way of filing Writ Petition No.3521/2017 which came to be disposed of vide order dated 13.04.2017 (Annexure - P/1) with the direction to the petitioner to file reply/objection to the recovery notices issued under Section 28(1) of the MP VAT Act. In compliance of the order of the Writ Court, the petitioner filed objection dated 06.07.2017 (Annexure- P/11) before the concerned Authority but it was never decided by the respondent/Department by non-complying with the direction of the Writ Court, the respondent/Department again initiated recovery proceedings against the petitioner.

8. Thereafter, being aggrieved with the aforesaid recovery proceedings, the petitioner again approached this Court by way of filing Writ petition No.18699/2019 which was withdrawn with liberty to file a properly constituted writ petition, thereafter, the petitioner filed Writ Petition No.28913/2021 which came to be disposed of vide order dated 11.03.2022 directing the respondent-Assistant Commissioner to decide the objection within 3 weeks, after giving opportunity of hearing to the petitioner. In compliance of the order dated 11.03.2022 passed in Writ Petition No.28913/2021, the petitioner approached the respondent No.3 requesting him to decide pending objection filed by the petitioner.

9. The petitioner again filed another application dated 23.05.2022



(Annexure -P/13) requesting the recovery officer to withdraw all recovery proceedings initiated against it with immediate effect as no decision was taken by the concerned department within the stipulated time granted by the Writ Court. The Respondent No.3-Assistant Commissioner issued notice dated 10.06.2022 (Annexure - P/14) directing the petitioner to appear on 13.06.2022 in compliance to order dated 11.03.2022. Again on 08.09.2022, the Respondent No.3 again issued notice to the petitioner and rejected his preliminary objection regarding maintainability of notice dated 10.06.2022 and directed to appear on 16.09.2022. When the case came up for hearing on 16.09.2022 before the Authority, the petitioner filed an application and sought adjournment . But, the respondent/Authority declined to accept the aforesaid application and without giving the petitioner an opportunity of hearing passed the order dated 14.10.2022 (Annexure -P/20) rejection the objection filed by the petitioner.

10. Being aggrieved by the aforesaid order dated 14.10.2022 passed by the Respondent No.3, the petitioner filed a Revision Petition under Section 62(1) of the Act read with Rule 10A of MP Sales Tax (Central) Rules, 1957. During the pendency of the Revision Petition before Respondent No.2, the Respondent No.4 initiated recovery proceeding against the petitioner by issuing notices to the Banks which compel the petitioner to approach this Court by way of filing Writ Petition No.18850/2026 which came to be disposed of vide order dated 20.05.2026 (Annexure P/22) with the direction to Revisional Authority to decide the pending revision petition/interim application within 15 days till than it was observed that no



coercive action be taken against the petitioner.

11. After passing of the aforesaid order, notices were served on Respondent No.4 and vide order dated 02.01.2026 (Annexure- P/23) passed by the Respondent No.2 under Section 62(1) of the Act, the revision application filed by the petitioner was rejected. Hence, the petitioners have filed the present petition before this Court to quash the *suo moto* revision orders dated 19.07.2012, 14.10.2022 & 02.01.2026 passed by Respondent/Department.

Submissions made by learned counsel for the petitioners.

12. Learned counsel for the petitioners submits that the impugned order dated 19.07.2012 suffers from patent illegality and jurisdictional error. It is contended that respondent No.2 erroneously treated soya flour manufactured from soyabean husk as "flour of oil seeds", although soyabean husk is neither an oil seed nor covered under any taxable entry under the Act. Learned counsel also submits that the exemption as per Notification dated 23.04.2002 bearing Notification No.48 specifically exempted flour, cereals, pulses and husk from levy of tax and the respondent-Authorities have adopted an interpretation contrary to the language of the notification, thereby illegally denying the benefit of exemption available to the petitioners.

13. Learned counsel further submits that the issue is no longer *res integra* in view of the judgment of this Court passed in "*M/s General Foods Pvt. Ltd. Vs. Commissioner of Sales Tax, [(1987) 66 STC 271 (MP)]*", which has been affirmed by the Hon'ble Apex Court in "*M/s General Foods Pvt. Ltd., [(1999) 9 SCC 122]*" wherein the Apex court held that flour made



of husk from Soya is not oil seed and is not liable to tax under the Act.

14. Learned counsel for the petitioner submits that while passing the impugned order dated 14.10.2022, the respondent No.3 exceeded in its jurisdiction by determining a new tax liability on the partnership firm i.e. petitioner No.2, which was never been assessed by the respondent/department in revision observed that petitioner No.2 is liable to pay Rs.85,01,950/- which is included in total demand of Rs.1,23,39,895/-. It was also contended that respondent No.3 bifurcated the demand in the hands of the petitioner No.2, which has never been assessed under the Commercial Tax Act nor under the Central Sales Tax Act, which itself is without jurisdiction and perverse.

15. Learned counsel further submits that the order dated 19.07.2012 was never served upon the petitioners and, therefore, they were deprived of their statutory remedies for several years. Upon initiation of recovery proceedings in 2017, the petitioners became aware of the order and thereafter they diligently pursued remedies before the respondent-Authorities as well as before this Court.

16. Learned counsel submits that while passing the order dated 14.10.2022, Respondent No.3 failed to comply with the specific directions issued by this Court in Writ Petition No.28913/2021. Instead of examining the objections on merits, the authority merely reiterated the earlier position without independently considering the petitioners' objections and the binding judicial precedents. In spite of specific requests made by the petitioner seeking adjournment which shall enable the petitioner's counsel to appear



before the respondent No.3 but the same was not considered and no opportunity of being heard was granted by the respondent No.3 before passing the order dated 14.10.2022.

17. Learned counsel further submits that the Revisional Authority illegally rejected the revision under Section 62(1) by observing that the revision was maintainable only against an assessment order.

18. Learned counsel further submits that order dated 02.01.2026 was passed without granting any effective opportunity of hearing, thereby violating the principles of natural justice. Moreso, the order is barred by limitation and is in violation to Section 62(1B) of the Act, which mandates 06 months time period to decide the revision petition. Because the impugned order passed is in violation to the principles of natural justice, no such show cause notice has been issued by respondent No. 2. showing its intention, nor has any opportunity of hearing been granted to the petitioner on the ground revision is rejected.

19. In addition to the aforesaid submissions, learned counsel for the petitioner submits that the Revisional Authority erred in upholding the revision u/s 62(1) as maintainable against the assessment order. Although as per the relevant provision, revision u/s 62(1) can be filed against any order, except against determination of liability and against order u/s 72 of the Act. In the present case, such exceptions are not applicable.

20. On the aforesaid grounds, learned counsel prays that the impugned orders dated 19.07.2012, 14.10.2022 and 02.01.2026 be quashed and the petitioners be held entitled to exemption under the Notification dated



23.04.2002.

Submissions made by learned counsel for the respondents.

21. *Per contra*, learned Government Advocate appearing for the respondents is in support of the aforementioned impugned orders and submits that the Revisional Authority rightly exercised its powers under Section 62(3) of the MP Commercial Tax Act after noticing that the original assessment was contrary to law.

22. Learned Government Advocate submits that flour manufactured from soyabean husk cannot be equated with ordinary flour or products covered by the exemption notification dated 23.04.2002. According to the respondents, the commodity is essentially a product of oil seeds and, therefore, was rightly subjected to tax under the applicable provisions of the Act.

23. Learned Government Advocate further submits that the Revisional Authority correctly interpreted the statutory notification and denied exemption, as exemption notifications are required to be construed strictly and the petitioners failed to establish that its product fell squarely within the exempted category.

24. Learned Government Advocate further submits that the order dated 14.10.2022 was passed in compliance with the directions issued by this Court after granting due opportunity to the petitioners and after considering their objections.

25. Learned Government Advocate submits that the revision preferred by the petitioners under Section 62(1) was not maintainable in law,



as the statutory provision contemplates revision only against assessment orders and not against orders passed in the course of recovery proceedings. Hence, the revisional authority rightly declined to entertain the revision.

26. In addition to the aforesaid submissions, learned Government Advocate further submits that the writ petition suffers from delay and laches since the original revisional order was passed in the year 2012, whereas the present petition has been filed only in the year 2026 after several rounds of litigation and based on these grounds, the respondents pray for dismissal of the writ petition, submitting that no jurisdictional error or violation of statutory provisions has been committed by the authorities warranting interference under Article 226 of the Constitution of India.

Conclusion.

27. According to Notification No.48 dated 23.04.2002, except for imported and registered branded flour (*atta*) and gram flour (*besan*), all other *atta* and *besan* have been exempted from tax.

The Soya Flour sold by the petitioner is neither imported nor registered branded. Therefore, the flour falls under the tax-free category, and thus, no tax was levied.

28. The Assessing Authority wrongly accepted Soya Flour under 'flour' and passed an assessment order under Section 28(1) of the Act. Therefore, the order passed under Section 28(1) in this matter is adverse to government revenue. As the said order is detrimental to public revenue, let the same be taken into revision and *suo motu* revision proceeding under Section 62(3) of the "Madhya Pradesh Commercial Tax Act, 1994" be initiated.

Period 2002-03 CST Revision

SCHEDULE

S. No.	Class of goods	Extent of exemption
1.	Atta (flour) and besan of cereals and pulses other than imported [...] atta (flour) and besan of cereals and pulses	Full

29. The above notification explicitly states flour (atta) and besan of grains (cereals) and pulses (pulses). The word 'Cereals' has been used for atta and 'Pulses' for besan. Soya is not mentioned in the said notification. Soybeans fall under oilseeds, not pulses. Furthermore, Soya Flour is not a grain (Cereal). Therefore, treating Soya Flour as cereal flour is not in accordance with the law. On behalf of the taxpayer, referencing Entry 90 and 91 of Schedule 1 of the M.P. Commercial Tax Act, it was argued that Soya Flour is included in the said entry, which is tax-free. This schedule-related information submitted by the taxpayer was valid only up to the period ending 31.03.99. From 15.03.2000, these goods have been included in Entry 77 of Part 5 of Schedule 2, which is taxable. Conditional exemption has been granted to cereal flour and pulse besan under Notification 48 dated 23.04.02. The petitioner cannot avail of the benefit of the said notification. This is because they do not manufacture atta from cereals and besan from pulses;



rather, they manufacture Soya Flour from soybeans, which was not tax-free at the material time. Therefore, due to the lack of supporting C-Forms on the interstate sales of Soya Flour amounting to ₹12,33,98,050/-, Central Sales Tax is levied at the rate of 10%, amounting to ₹1,23,39,895/-."The exemption notification specifically covered atta (flour) derived from cereals and besan derived from pulses. The department noted that soybean is legally classified as an oilseed, not a pulse, and Soya Flour cannot be classified as a cereal. Therefore, extending the exemption to Soya Flour was deemed contrary to law. Thereafter, recovery actions were initiated by the department for the additional demand of ₹1,23,39,895/- arising out of the revision order passed by the Additional Commissioner, Commercial Tax, Jabalpur Zone-Jabalpur.

29. In view of the above, we do not find any ground to interfere with the impugned order; and the present Writ Petition is dismissed, accordingly.

(VIVEK RUSIA)
ACTING CHIEF JUSTICE

(PRADEEP MITTAL)
JUDGE