

The vs East Jaintia Hills District on 1 October, 2026

Author: [H.S. Thangkhiew](#)

Bench: [H.S. Thangkhiew](#)

2026:MLHC:1107-DB

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 59 of 2024

Reserved on :09.06.2026
Pronounced on :01.10.2026
Uploaded on :01.10.2026

Whether the operative part or full judgment is pronounced: Full____
Megha Technical and Engineers Pvt. Ltd.,
A company incorporated under the provisions of the [Companies Act, 1956](#)
and having its registered office situated at Lumshnong,
P.O. Khliehriat in the district of East Jaintia Hills Meghalaya-793200 and
Represented by Mr. Sanjib Kumar Saharia, the Authorised Signatory of
The Petitioner Company
.... Petitioner(s)
Versus

1.State of Meghalaya represented by
The Commissioner and Secretary to the Government of Meghalaya,
Finance Department, Meghalaya Secretariat, Shillong

2. The Commissioner of Taxes,
Office of the Commissioner of Taxes,
4th Secretariat Building, Lachumiere, Shillong-793001

3. The Superintendent of Taxes,
East Jaintia Hills District, Khliehriat
.... Respondent(s)

Coram:

Hon'ble Mr. Justice H.S. Thangkhiew, Judge
Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner(s) : Dr. A. Saraf, Sr. Adv. with
Mr. S.J. Saikia, Adv.

For the Respondent(s) : Mr. A. Kumar, AG with
Mr. N. Syngkon, GA
Mr. J.N. Rynjah, GA
Ms. S. Laloo, GA

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i) Whether approved for reporting in Law journals etc: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT:

1. The present writ petition has been filed challenging the Scrutiny Reports and Notices for curing of defects in tax returns issued by the respondent No. 3, under [Section 39](#) of the Meghalaya VAT Act, 2003 for the period from quarter ending 30.06.2007 to quarter ending 30.06.2017. The contention of the petitioner is that no notice under [Section 35](#) was issued to the petitioner company, which is a condition precedent for scrutiny of records under [Section 39](#) of the Act. It is the further contention that the said powers under 39 of the Act for scrutiny of returns cannot be exercised at any time, since the Act of 2003 provides the period for 5 years from the end of the tax period, as the period of limitation for completing the assessment. It is alleged that in the present case the scrutiny has been completed and notice issued under [Section 39](#) of the Act, much after the expiry of the period of limitation for the completion of assessment. The action of the respondents as per the petitioner company is therefore arbitrary, illegal, without jurisdiction, barred by limitation, and as such the same are liable to be set aside and quashed.

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2. Dr. A Saraf, learned Senior counsel assisted by Mr. S.J. Saikia, learned counsel for the petitioner has submitted that a plain reading of [Section 39](#) of the Act shows that the scrutiny of returns under this provision can only be done when a notice has been issued to a dealer by the Commissioner of Taxes under [Section 35](#) of the Meghalaya Value Added Tax Act, 2003. The learned Senior counsel has placed reliance upon the judgment of a Division Bench of Tripura High Court dated 20.01.2020 passed in WP(C) No. 1109 of 2019 and WP(C) No. 1111 of 2019, in the case of [Shri Pankaj Bihari Saha vs. State of Tripura & Ors.](#), wherein the said Court while examining a pari materia provision of [Section 27](#) of the Tripura VAT Act held that the said power can be exercised only in relation to a dealer to whom notice has been issued by the Commissioner under [Section 24](#) of the said Act. It is further submitted that it is a normal rule of construction that when a statute vests certain powers in an authority to be exercised in a particular manner, then the said authority has to exercise it only in the manner provided in the statute itself.

3. Coming to the facts at hand, it is submitted that the petitioner company had been regularly submitting its monthly returns under the Act and claiming remission under the Meghalaya Value Added Tax Remission Scheme, 2006 and had paid all taxes as due, as per the returns filed. The assessment he contends for the period in question i.e. 30.06.2007 to Page 3 of 21 2026:MLHC:1107-DB 30.06.2017, could not have been carried out by the respondents in view of the provisions of [Section 57](#) of the MVAT Act, 2003, which provides that no assessment under [Sections 52](#) and [56](#) can be made after the expiry of 5 years from the end of the tax period to which the assessment relates. The scrutiny reports of returns for the said period therefore, was clearly without jurisdiction as they are beyond the limitation prescribed in the Act. The petitioner he submits also received the impugned notices issued by the respondent No. 3, for curing defects in the tax returns for the said period issued on 08.03.2023, which he contends is clearly after the period of limitation for completion of assessment, and as such the entire proceedings are without jurisdiction. It has also been submitted by the learned Senior counsel that [Section 35\(3\)](#) of the MVAT Act provides that a notice can be issued by the Commissioner to furnish returns only to a dealer "other than a registered dealer" and does not provide for a notice to be issued to a registered dealer, and as the petitioner company is duly registered under the [MVAT Act](#), even the question of issuance of notice under [Section 35](#) does not arise at all. It is also argued that there is a clear distinction between registered dealer who are obliged to file returns under [Section 35\(2\)](#) and other dealers who may be required to file returns under [Section 35\(3\)](#), upon which the scrutiny power under [Section 39](#) is expressly conditioned and Page 4 of 21 2026:MLHC:1107-DB therefore, for registered dealer who do not fall [Section 35\(3\)](#), the scrutiny provision cannot be invoked.

4. It has also been contended that the impugned notices for curing defects in the tax returns were issued without granting any reasonable opportunity to the petitioner by way of show cause notice and the scrutiny was completed and notices were issued on the same date, which left no scope for the petitioner to present its case or explain the alleged defects. This action it is submitted is a clear violation of the principles of natural justice, as well as the provision of [Section 39](#) of the MVAT Act. On another limb of submission, it has been argued that in the action of the respondents there is an absence of proper delegation of powers, inasmuch as, even if the respondent No. 3, could exercise powers under [Section 39](#), such powers should be properly delegated by the respondent No. 2, in accordance with [Section 26](#) of the MVAT Act read with Chapter-II of the MVAT Rules, 2005, whereby Rule 3 mandates that the respondent No. 2 (Commissioner) must delegate powers through a notification in the Official Gazette. No such notification, it is asserted exists delegating [Section 39](#) powers to the respondent No. 3, but it appears that the respondents have relied on an internal order or circular, which does not satisfy the statutory requirements of the gazette notification, which renders the delegation legally incompetent and resultantly the action of the respondent No. 3, without jurisdiction. Page 5 of 21

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5. With regard to the notice dated 27.04.2017, which has been brought on record by the respondents in the affidavit-in-opposition, it has been contended that from a plain reading thereof, it is clear that the said notice was for the purpose of completing the assessment and for that purpose, the books of account were directed to be produced. [Section 39](#) of the Act however, he submits is for scrutiny of returns to verify the correctness of calculation, application of the correct rate of tax and interest and input tax credit claim therein. Such scrutiny he submits, is to be done on the basis of returns filed by a dealer and after examining the books of accounts and documents to be produced by dealer, and therefore the notice dated 27.04.2017, was but a notice for completion of assessment, but after 6 years from the issuance of the notice, the returns was said to be scrutinized under [Section 39](#) of the Act, and notices under Form 20 issued. Thus, the notice dated 24.04.2017, cannot save the proceedings, and that the question of examining the merits of the order under [Section 39](#), will arise only when the assessing authority has jurisdiction to proceed with the scrutiny of returns. The question of suppression of facts, he asserts does not arise, inasmuch as, the notice dated 27.04.2017, was for completion of assessment and not for scrutiny of returns, moreover keeping in mind the fact, that the challenge in the present writ petition is directed against notices and orders Page 6 of 21 2026:MLHC:1107-DB issued under [Section 39](#), for scrutiny of returns, which are distinct proceedings.

6. The learned Senior counsel in support of his submissions has placed reliance on the following judgments: -

i) [Shri Pankaj Behari Saha vs. State of Tripura WP\(C\) No. 1109/2019](#)

ii) [Commissioner of Income Tax, Mumbai vs. Anjum M.H. Ghaswala & Ors.](#) (2002) 1 SCC 633

iii) State of Punjab & Ors. vs. Bhatinda District Cooperative Milk Producers Union Ltd. (2007) 11 SCC 363

iv) Cape Brandy Syndicate v. Commissioner of Inland Revenue, (1921) 1 K.B. 64

v) [Murarilal Mahabir Prasad & Ors. vs. Shri B.R Vad & Ors.](#)

(1975) 2 SCC 736

vi) [C.I.T. Madras vs. Ajax Products Ltd.](#), AIR 1965 SC 1358

vii) [Srimati Tarulata Shyam & Ors. vs. Commissioner of Income-](#)

Tax, West Bengal (1977) 3 SCC 305

viii) Polestar Electronic (Pvt) Ltd., vs. Additional Commissioner, Sales Tax & Anr. (1978) 1 SCC 636

ix) [H.H. Lakshmi Bai & Anr. vs. Commissioner of Wealth Tax & Ors.](#) (1994) 2 SCC 534

x) Federation of A.P. Chambers of Commerce & Industry & Ors.

vs. State of A.P. & Ors. (2000) 6 SCC 550

xi) [Ajmera Housing Corporation & Anr. vs. Commissioner of Income Tax](#) (2010) 8 SCC 739

xii) [K. Subamanian vs. Siemens India Ltd.](#), 1988 173 ITR 136 Page 7 of 21 2026:MLHC:1107-DB

xiii) [Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai](#), (1998) 8 SCC 1

xiv) [Assistant Commissioner of State Tax vs. Commercial Steel Limited](#) (2021) SCC Online SC 884

xv) [Godrej Sara Lee Ltd. vs. Excise and Taxation Officer-cum-](#)

Assessing Authority & Ors. (2023) 109 GSTR 402 (SC) xvi) Union of India & Ors. vs. Ind-Swift Laboratories Ltd., (2011) 40 VST 1 (SC)

7. With regard to the judgment placed by the respondents i.e. J.K. Cotton Spinning and Weaving Mills Co. Ltd., vs. State of Uttar Pradesh & Ors., the learned Senior counsel submits that the same has no relevance to the instant case as [Section 39](#) is a special provision that presupposes issuance of notice by the respondent No. 3, under [Section 35](#), and as such there is no question of any conflict between the general and special provisions in this context.

8. He therefore, concludes by submitting that the action of the respondents being clearly illegal, arbitrary and without jurisdiction, the impugned Notices and proceedings are liable to be set aside and quashed.

9. Mr. A. Kumar, learned AG assisted by Mr. N. Syngkon, learned GA for the respondents in reply has at the outset submitted that the petitioner has suppressed material facts which have a bearing on the outcome of the writ petition, inasmuch as, the notice served upon the petitioner to produce Page 8 of 21 2026:MLHC:1107-DB Books of Accounts as far back as on 27.04.2017, has not been divulged. By the said notice it is submitted, the petitioner was directed to produce its, Sales and Purchase Registers, List of Tax Invoices, Cashbook and Ledgers, Stock Registers and a Detailed List of exempted goods for the period 01.05.2005 to 31.12.2016. The said notice he further submits, was duly received by an Assistant Manager who complied with the same on 19.10.2021, by producing the Books of Accounts, and in this context the learned Advocate General has referred to the notice along with an acknowledgment enclosed at Annexure-1 to the affidavit-in-opposition. It is then contended that the factum of the said notice negates the pleas of the petitioner of non-issuance of notice before conducting scrutiny and also the aspect of limitation, and on this ground alone the writ petition merits outright dismissal for suppressing material facts. Reliance has been placed in support of this submission on the case of [K.D. Sharma vs. Steel Authority India Limited & Ors.](#) (2008) 12 SCC 48, wherein it has been held that if the applicant does not disclose all the material facts fairly and truly, the Court has inherent power to prevent an abuse of its process to discharge the rule and refuse to proceed further with the examination of the case on merits. Further judgments namely; (i) [Kusha Duruka v. State of Odisha](#) (2024) 4 SCC 432 (ii) [K. Jayaram v. BDA](#) (2022) 12 SCC 815 (iii) [Prestige Lights Ltd. v. SBI](#) (2007) 8 SCC 449 and (iv) [S. Tripathi Rao v. M. Lingamaiah](#) Page 9 of 21 2026:MLHC:1107-DB (2024) SCC OnLine SC 1764, have also been pressed into service on this point.

10. The learned AG has then contended that the entire case of the petitioner is based on the argument that no notice under [Section 35](#) has been issued to the petitioner and therefore, the notices and orders under [Section 39](#) of the MVAT Act are illegal. As per the pleadings he submits, it can be taken that the case of the petitioner is that no notice under [Section 35](#) can be issued to registered dealers and therefore, [Section 39](#) must be read in such a manner to be applicable only to unregistered dealers, meaning thereby essentially any proceedings initiated against registered dealers is illegal. This argument according to the learned AG is flawed and contrary to the provision of [MVAT Act](#), inasmuch as, [Section 39](#) provides for "Security of Return" and under [Section 35\(2\)](#) every registered dealer is mandated to furnish returns, and as such [Section 39](#) cannot be read to exclude registered dealers and that there is no provision of scrutiny of returns furnished by registered dealers, such as the petitioner. It is also submitted that [Section 35](#) and [Section 39](#) must be read harmoniously and consequently there is no mandate to issue notice under [Section 35](#) to registered dealers, or that [Section 39](#) can be invoked independently of [Section 35](#). Reliance on this point has been placed on the case of [Iridium India Telecom Ltd. v. Motorola Inc.](#), 2005 (2) SCC 145. An argument has been further advanced that even when Page 10 of 21 2026:MLHC:1107-DB there is some ambiguity or incongruity, this Court can read down the expressions in order to interpret [Section 35](#) and [Section 39](#) harmoniously.

11. The defects detected during scrutiny have also been highlighted and it is submitted that a mere reading of [Section 39](#) makes it clear that scrutiny is allowed for each and every return furnished by a registered dealer, and during scrutiny if any mistake is detected, the assessing authority is allowed to serve notice upon the dealer to make payment of additional tax along with interest and that [Section 39](#) does not provide for any limitation period for scrutiny and is permissible for any tax period. It is also contended that limitation prescribed by [Section 57](#) is not applicable to [Section 39](#) proceedings because the proceedings were not drawn up under [Section 55](#) and [56](#), so as to make [Section 57](#) applicable but were drawn up under [Section 39](#), where there is no limitation. The respondent No. 3 it is asserted, has been delegated with the power to proceed with scrutiny of returns in terms of [Section 56](#) of the MVAT Act read with Chapter-II of the MVAT Rules, and as such is competent to act under [Section 39](#). It is then reiterated that initial notice had been issued on 27.04.2017, which provided reasonable opportunity to the petitioner whereafter on production of Books of Accounts, Notices in Form-

20 in terms of Rule 32 of the MVAT Rules for curing defects and making payment of extra tax along with interest were sent. As such, it is submitted the question of violation of the principles of natural justice does not arise and the provision of [Section 39](#) was fully complied with, as prior notice was issued. It is then lastly submitted that there being alternative remedy available under [Section 65](#) of the MVAT Act, 2003, the petitioner should have exhausted that remedy before approaching this Court under Article-226, and the writ petition is also liable to be dismissed as being not maintainable.

12. From the materials and submissions as tendered, in the opinion of this Court the following issues have arisen for determination: -

- i) Firstly, whether scrutiny under [Section 39](#) of the MVAT Act, 2003 can be validly initiated without issuance of notice under [Section 35](#) by the respondent No. 2 and whether such notice can be issued to a registered dealer given that [Section 35\(3\)](#) specifically refers to dealers "other than a registered dealer"
- ii) Secondly, whether the period of limitation of 5 years prescribed under [Section 57](#) of the MVAT Act, 2003 for completion of assessments under [Section 55 & 56](#) can be read into [Section 39](#) proceedings for scrutiny of returns and consequently, whether initiation of scrutiny proceedings in March, 2023, for the period 2007 to 2017 is barred by limitation.
- iii) Thirdly, whether the respondent No. 3 (Superintendent of Taxes) had jurisdiction and authority to initiate proceedings under [Section 39](#) of the Act as provided under [Section 26](#) and Chapter-II of the MVAT Rules, regarding delegation of powers.
- iv) Whether there has been violation of the principles of natural justice, and whether the writ petition is maintainable in view of the existence of alternative remedy under [Section 65](#) of the MVAT Act, 2003, given that a challenge is to jurisdiction to initiate such proceedings.

13. In the considered view of this Court therefore, the issue for determination as given hereinbefore will primarily deal with the interpretation of the language used in [Section 35](#) and [39](#) of the MVAT Act, 2003, which for the sake of convenience are reproduced hereinbelow: -

"35. Periodical return and payment of tax and interest-

(1) Tax payable under this Act shall be paid in the manner hereinafter provided at such interval as may be prescribed. (2) Every registered dealer shall, in the prescribed manner, furnish such returns by such dates and to such authority as may be prescribed.

(3) Any dealer, other than a registered dealer referred to in sub-

section (2), shall if so required by the Commissioner by a notice served in the prescribed manner, furnish returns in accordance with the provisions of sub-section (2).

(4) Before any dealer furnishes a return required by sub-section (2) or sub-section (3), he shall, in the prescribed manner pay, into a Government Treasury or the State Bank of India [or any Bank authorised by the Government] the full amount of tax due from him under the Act, according to such return, and shall furnish along with such return and receipt from the Treasury or Bank showing the payment of such amount.

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2026:MLHC:1107-DB Provided that a registered dealer shall subject to such conditions as may be prescribed, pay in the prescribed manner the tax payable under the Act for any prescribed part of the period for which a return is required to be furnished under sub-section (2) or sub-section (3) by such date as may be prescribed after the expiry of the prescribed part of the period as aforesaid.

Provided further that a dealer may furnish return within the prescribed date without making payment of tax either in full or in part subject to such terms and conditions as may be prescribed. (5) If any dealer discovers any omission or any other error in any return furnished by him, he may, at any time before the date prescribed for the furnishing of the next return by him, furnish a revised return, and if the revised return shows a greater amount of tax to be due than what was shown in the original return, it shall be accompanied by a receipt showing payment of the extra amount in the manner provided in sub-section (4).

39. Scrutiny of return -

(1) Each and every return in relation to any tax period furnished by a registered dealer to whom notice has been issued by the Commissioner under [section 35](#) shall be subject to scrutiny by the Assessing Authority to verify the correctness of calculation, application of correct rate of tax and interest and input tax credit claimed therein; and full payment of tax and interest payable by the dealer during such period.

(2) If any mistake is detected as a result of such scrutiny made as per the provisions of sub-section (1) the Assessing Authority shall serve a notice in the prescribed form on the dealer to make payment of the extra amount of tax along with the interest as per the provisions of this Act, if it is payable by a date specified in the said notice.

(3) If the Commissioner:-

(a) Discovers any error or omission in any return furnished by a dealer: or

(b) Has reasons to believe upon information or otherwise that a dealer has furnished an incorrect statement of his turnover of sales or turnover of purchases or incorrect particulars of his sales or purchases in any return. He may require such dealer to produce any accounts, register, statements or documents or to furnish any information regarding purchases, sales, deliveries, stock of goods or payments made or received or any other related or incidental matter for the purpose of verification of such return."

14. [Section 35](#), which deals with periodical returns and payment of tax and interest at [Section 35\(2\)](#) mandates that every registered dealer shall in a prescribed manner furnish such returns by such dates and to such authority as may be prescribed and [35\(3\)](#) refers to any dealer, other than a registered dealer referred to in [35\(2\)](#), who shall if so, required by the Commissioner by a notice in the prescribed manner, furnish returns in accordance with the provision of sub-section (2). The Acts therefore, make it amply clear as to the distinction between a registered dealer and any dealer other than a registered dealer, wherein a notice is not required to be served upon a registered dealer to furnish returns.

[Section 39](#) as quoted above, dealing with the Scrutiny of Return at [39\(1\)](#) thereof, speaks of each and every return in relation to any tax period furnished by a registered dealer to whom notice has been issued by the Commissioner under [Section 35](#) shall be subject to scrutiny by the assessing authority to

15. Thus, the language of [Section 39\(1\)](#) is very clear and unambiguous as it mandates that scrutiny shall be conducted of returns furnished by registered dealer to whom notice has been issued by the Commissioner under [Section 35](#). This to the mind of the Court is not merely a procedural formality but a condition precedent that goes to the root of the authority and jurisdiction to undertake scrutiny. The respondents stand that [Section 39](#) allows scrutiny of "each and every return" irrespective of whether notice under [Section 35](#) has been issued is a misreading of the provision, inasmuch as, the words "to whom notice has been issued by the Commissioner under [Section 35](#)" qualify the class of registered dealers whose returns can be scrutinized. [Section 39](#) being the specific provision therefore, requires notice under [Section 35](#) as a precondition. The principle therefore, that power must be exercised in the manner provided by the statute, as held in [Kunwar Pal Singh vs. State of U.P.](#) (2007) 5 SCC 85 (Para 16), directly applies that provision of a statute when statute prescribes a particular manner for doing a particular act, that must be done in that manner alone, and an authority cannot assume jurisdiction in a manner not authorised or allowed by a statute. In a similar case which has great persuasive value, a Division Bench of the Tripura High Court in the case of [Shri Pankaj Bihari Saha vs. State of Tripura & Ors](#) (supra), while considering the provisions of the Tripura Value Added Tax, 2004, which Page 16 of 21 2026:MLHC:1107-DB contains provisions which are pari materia to the provisions of [MVAT Act](#) namely; [Sections 24](#) (periodical returns and payment of tax) and [Section 27](#) (scrutiny of returns). In similar circumstances, while also considering the limitation prescribed, held that unless and until notices are issued in terms of [Section 24\(2\)](#) of TVAT Act, the authorities cannot invoke powers under [Section 27](#) of the TVAT Act. Paragraph 20 thereof, which is relevant is reproduced hereinbelow: -

"20. The special powers can be exercised only in relation to a dealer to whom notice has been issued by the Commissioner under [Section 24](#) of the Act. [Section 24](#) refers to issuance of notice only under sub-section (2) of the Act. Necessarily, therefore, unless and until such notice is issued in terms of sub-section (2) of [Section 24](#) of the TVAT Act, the TVAT authorities cannot invoke the powers under [Section 27](#) of the TVAT Act. Any other view would defeat the very scheme of the said Chapter providing for audit assessment and limitation for completing in such assessment as provided under [Section 33](#) of the Act. The respondent authorities cannot be allowed to circumvent the limitation provision for completing audit assessment by permitting resort to the powers of summary adjustments under [Section 27](#) which are peculiar in nature and are available only in case where notice under sub-section (2) of [Section 24](#) of the Act has been issued to a dealer."

16. The above quoted judgment also clearly held that the authorities also cannot be allowed to circumvent the limitation provisions for completing audit assessment by permitting recourse to powers of summary adjustments under [Section 27](#) of the TVAT Act. Similarly, in the instant case the [Scheme of the MVAT Act, 2003](#) providing for the 5-year period of Page 17 of 21 2026:MLHC:1107-DB limitation under [Section 57](#) of the MVAT is also to be applied in respect of [Section 39](#) of the Act. The respondents' arguments based on J.K. Cottons Spinning and Weaving Mills Co. Ltd., (supra) about specific provisions prevailing over general provisions in fact, support the case of the petitioner and the specific requirement cannot be ignored or read down.

17. Added to the above, it is also noted that [Section 35\(3\)](#) expressly provides for issuance of notice only to dealers "other than a registered dealer" which makes the Scheme of the Act clear that registered dealers are duty bound to file returns under [Section 35\(2\)](#) without notice, while unregistered dealers may be required to file returns by a notice under [Section 35\(3\)](#). [Section 39](#) applies scrutiny only to registered dealers "to whom notice has been issued by the Commissioner under [Section 35](#)", thus a registered dealer cannot be issued notice under [Section 35\(3\)](#) as it excludes registered dealers from its ambit. The only harmonious construction that can be afforded, is that [Section 39](#) scrutiny, would apply only to those registered dealers who were previously unregistered and were brought under the tax net by a notice under [Section 35\(3\)](#), and thereafter became registered, which does not apply to the case of the petitioner, who was always registered and had filed returns under [Section 35\(2\)](#), without any notice.

18. On the other issues i.e. the delegation of powers, [Section 26](#) of the Act read with Rule 3 of the MVAT Rules, 2005 has mandated that the Page 18 of 21 2026:MLHC:1107-DB Commissioner "shall" delegate powers by a notification in the Official Gazette. The respondents in this connection, have in the course of the proceedings not placed on record any such notification published in the Official Gazette delegating [Section 39](#) powers to the respondent No. 3 (Superintendent of Taxes). The reliance placed on internal order and circulars therefore, will not satisfy this statutory requirement.

Though a lot has been sought to be made out by the respondents to rely on a notice dated 27.04.2017, to be a [Section 35](#) notice, the same is disregarded as the said notice was for production of Books of Accounts for assessment purposes and not a notice to furnish returns, even if treated as such, it will be invalid as [Section 35\(3\)](#) does not authorise issuance of notice to registered dealers

19. In view of the clear findings with regard to jurisdiction and from the facts as they reveal, that no proper notice was issued added with the mandatory precondition of notice under [Section 35](#) not being satisfied, the writ petition is therefore, held to be maintainable as it meets the exceptions laid down by the Hon'ble Supreme Court in various judgments, such as [Whirlpool Corporation](#) (supra).

20. The other judgments placed by the parties though noted, in view of the clear findings hereinabove, are not discussed or elaborated upon. Page 19 of 21

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21. Accordingly, for the reasons aforementioned, the instant writ petition is allowed and the impugned Scrutiny Reports, Impugned Notices for curing defects in tax return dated 08.03.2023 for quarter ending 30.06.2007, 08.03.2023 for quarter ending 30.09.2007, 08.03.2023 for quarter ending 31.12.2007, 08.03.2023 for quarter ending 31.03.2008, 08.03.2023 for quarter ending 30.06.2008, 08.03.2023 for quarter ending 30.09.2008, 08.03.2023 for quarter ending 31.12.2008, 08.03.2023 for quarter ending 31.03.2009, 08.03.2023 for quarter ending 30.06.2009, 08.03.2023 for quarter ending 30.09.2009, 08.03.2023 for quarter ending 31.12.2009, 08.03.2023 for quarter ending 31.03.2010, 13.03.2023 for quarter ending 30.06.2010, 13.03.2023 for quarter ending 30.09.2010, 13.03.2023 for quarter ending 31.12.2010, 13.03.2023 for quarter ending 31.03.2011, 13.03.2023 for quarter ending 30.06.2011, 13.03.2023 for quarter ending 30.09.2011, 13.03.2023 for quarter ending 31.12.2011, 13.03.2023 for quarter ending 31.03.2012, 13.03.2023 for quarter ending 30.06.2012, 13.03.2023 for quarter ending 30.09.2012, 13.03.2023 for quarter ending 31.12.2012, 13.03.2023 for quarter ending 31.03.2013, for quarter ending 13.03.2023 for quarter ending 30.06.2013, 13.03.2023 for quarter ending 30.09.2013, 13.03.2023 for quarter ending 31.12.2013, 13.03.2023 for quarter ending 31.03.2014, 30.11.2023 for quarter ending 30.06.2014, 30.11.2023 for the quarter ending 30.09.2014, 30.11.2023 for Page 20 of 21 2026:MLHC:1107-DB quarter ending 31.12.2014, 30.11.2023 for the quarter ending 31.03.2014, 30.11.2023 for the quarter ending 30.06.2015, 30.11.2023 for the quarter ending 30.09.2015, 30.11.2023 for the quarter ending 31.12.2015, 30.11.2023 for the quarter ending 31.03.2016, 30.11.2023 for the quarter ending 30.06.2016, 30.11.2023 for the quarter ending 30.09.2016, 30.11.2023

for the quarter ending 31.12.2016, 30.11.2023 for the quarter ending 31.03.2017, and 30.11.2023 for the quarter ending 30.06.2017 issued by the Superintendent of Taxes, East Jaintia Hills District, Khliehriat in the exercise of powers under [Section 39](#) of the Meghalaya VAT Act, 2003, and impugned referred Notices for the period from quarter ending 30.06.2007 to quarter ending 30.06.2017, issued for curing of defects in tax returns, are hereby set aside and quashed.

22. The writ petition stands closed and is accordingly disposed of.

(B. Bhattacharjee)
JUDGE

(H.S. Thangkhiew)
JUDGE

Meghalaya
01.10.2026
"V. Lyndem- AR-PS"

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Digitally signed by: VALENTINO LYNDEM

Signed On: 01-10-2026 13:14:30 IST

Verified