**(1991) 02 P&H CK 0008**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Civil Writ Petition No. 4499 of 1988

Jainson Hosiery Industries (Regd.) APPELLANT

Vs

Assessing Authority and Others RESPONDENT

**Date of Decision :** 14-02-1991

**Acts Referred:**
Central Sales Tax Act, 1956 — Section 9(2)
Punjab General Sales Tax Act, 1948 — Section 21, 21A

**Citation :** (1993) 1 ILR (P&H) 68

**Hon'ble Judges :** Amarjeet Chaudhary, J

**Bench :** Single Bench

**Advocate :** V. Ramswaroop and Anil Sharma, for the Appellant;

**Final Decision :** Dismissed

## Judgement

Amarjeet Chaudhary, J.—The Petitioner is a partnership firm and has filed this writ petition through their partners for quashing P-l, P-2 and P-5 orders dated 25th March, 1981, 12th January, 1983 and 15th February, 1988 respectively.

2. The relevant faets of the case are that the Petitioner is a dealer registered under the Punjab General Sales Tax Act. The Assessing Authorities, Ludhiana,-vide its orders dated 24th March, 1981 framed the original assessments for the year 1971-72, 1972-73, 19T3-74, 1974-75, 1975-76, 1976-77, 1977-78, 1978-79 1979-80 and 1980-81 under the Central Act and for the years 1876-77, 1977-78, 1978-79, 1979-80 and 1980-81 under the State Act respectively. Against these orders, the Petitioner filed fifteen appeals before the Deputy Excise and Taxation Commissioner, who-vide his order dated 12th January, 1983 upheld the findings of the Assessing Authorities and dismissed the appeals of the Petitioner. Against this order, the Petitioner dealer filed the appeal before the Sales Tax Tribunal, Punjab, who-vide his order dated 28th April, 1987 accepted the appeal and set aside the order of the Deputy Excise and Taxation Commissioner dated 12th January, 1983 and directed that the tax, may be levied on the Petitioner-dealer in accordance with the law applicable on readymade

garments. The Presiding Officer, Sales Tax Tribunal, Punjab,-vide his order dated 15th February, 19881 rectified the application filed by the State of Punjab, u/s 21-A of the Punjab General Sales Tax Act, 1988 read with Section 9(2) of the Central Sales Tax Act, 1956, rectifying the orders of his predecessor Annexure P-3, dated 28th April, 1987 held that the goods being manufactured by the Assessee dealer being readymade hosiery were excluded from the concessional rate of Sales Tax as available under item (10) and item (18) of the Government notification and as such Petitioner shall not be entitled to concessional rate of tax under the notifications. The Petitioner''s grievance in the writ petition is that the Presiding Officer Sales Tax Tribunal Punjab has exceeded his jurisdiction in the above said material whatsoever to rectify his predecessor''s orders dated 24th August, 1987.

3. I am of the considered view that u/s 21-A of the Act, a mistake apparent from record can be rectified within the stipulated period. The mistake should be clear from record without elaborate arguments. No apparent mistake from the record has been pointed out, and only the Presiding Officer has substituted his own views on the views of his predecessors which are not covered by the expression mistake apparent from record.

4. I am of the view that the condition precedent for assuming jurisdiction has not been satisfied u/s 21 of the Act. At best it is a case of change of opinion. In view of foregoing reasons the impugned orders of rectification of Presiding Officer of the Tribunal is quashed. Parties to bear their own costs.

 