2024:PHHC:164629-DB

CWP-33161-2024   - 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

130

CWP-33161-2024
Decided on : 10.12.2024

M/s Khalsa Steels

. . . Petitioner(s)

Versus

State of Punjab and others

. . . Respondent(s)

CORAM: **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**
            HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Dr. Naveen Rattan, Advocate and
          Ms. Rimika Khera, Advocate
          for the petitioner(s).

          Mr. Saurabh Kapoor, Addl. AG, Punjab.
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SANJEEV PRAKASH SHARMA, J. (Oral)

1.   Notice of motion.

2.   Mr. Saurabh Kapoor, Addl. AG, Punjab, accepts notice on behalf of the respondents – State and submits that the matter may be disposed of at this stage.

3.   The only argument raised by learned counsel for the petitioner is that his appeal ought to have been decided on merits without rejecting it on the ground of limitation.

4.   Learned counsel submits that the Appellate Authority has found the appeal to be belated by 4 months and 10 days. He relies upon the judgment passed by this Court in *CWP-27468-2023 & other connected cases*, titled as, *"M/s Vasudeva Engineering v. The Union of India and others"*, decided on *24.10.2024*, wherein, we have held as under:-

          "3.   The provisions of the said Act, 2017 are for the purpose

of providing relief to the businessman in an appropriate matter where the demand may have been raised wrongfully or illegally by preferring an appeal. If on account of delay which may occur due to several reasons, relating to business affairs, the businessman is precluded from filing of an appeal, he/she would become remedy less. The cancellation of registration of GST has cascading effect on all the other businessman too who are receiving the goods from the concerned businessmen whose GST registration has been cancelled. Therefore, in these circumstances, it is essential that a finality should be arrived at between the decision taken for cancellation of the registration and also at the same time remedy should be available which is efficacious to the concerned aggrieved person.

4.   Accordingly, we hold that the powers to hear the appeal in terms of Section 107 of the Act would not be subject to filing of an appeal within the time prescribed wherein, it would not in any manner deprive a person from claiming the right of hearing of an appeal by filing of a writ petition before this Court for condonation of delay.

5.   Now considering the aforesaid issue which is purely legal, we find that no reply from the respondents is required to be filed and we condoned the delay also as the petitioner(s) have already submitted the pre-deposit amount for hearing of the appeal."

Thus, he submits that the delay may be condoned.

5.   Learned State counsel objects and points out that the power is not available with the Appellate Authority to condone the delay beyond the period, as prescribed under the Rules.

6.   While it is true that the Appellate Authority could not condone the delay and the order cannot be said to be bad in law. On that count, however, considering the very purpose of the provisions, the appeal is to be

decided at the level of the Department only, and also taking into consideration the view taken by the Apex Court in *M/s Tecnimont Pvt. Ltd. vs. State of Punjab and others, 2019 INSC 1054*, and followed by this Court in the aforesaid judgment i.e. *Vasudeva Engineering's case (supra)*, we propose to dispose of this writ petition with direction to the Appellate Authority to decide the appeal on merits and we condone the delay in filing of the appeal.

The petitioner would be free to raise all objections on merits before the Appellate Authority. For the said purpose, the petitioner would represent himself before the Appellate Authority on 19th December 2024.

7.   Writ petition stands disposed of accordingly.

Misc. application(s), if any, also stands disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

December 10, 2024
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*