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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-17348-2024 (O&M)

Date of Decision: 07.08.2024

M/S. STEEL KART

.....Petitioner

V/s.

STATE OF HARYANA AND OTHERS

.....Respondents

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

Present: Mr. N.K. Sharma, Advocate and
Mr. Kapil Gautam, Advocate for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. Notice of motion.
2. Ms. Tanisha Peshawaria, DAG, Haryana accepts notice on behalf of the respondents.
3. Learned counsel for the petitioner submits that the petitioner has already paid the pre-deposit for hearing of the Appeal. It is stated that the order passed under Section 73 of the Haryana Goods and Services Tax Act, 2017 (for short 'the Act') was never conveyed to the petitioner and was not uploaded on the regular portal resulting in the petitioner having no knowledge of passing of the order creating the demand of ₹24,59,211/-. The petitioner has preferred the Appeal immediately on coming to know about the order and therefore, the delay ought not be taken into consideration.
4. While the provision under Section 107 and 35(1) of the Act provides for filing an Appeal within a period of thirty days, and further condoning of delay upto thirty days, we are of the view that the provision relating to filing of an Appeal in a particular period is essentially a directory provision and not a mandatory provision, although this Court has held that



the provisions under Section 5 of the Limitation Act, 1963 would have no application in cases where the period of condonation of delay has been itself mentioned in the Act. This Court would not be prevented from condoning such delay and in the circumstances where the concerned party is prevented from filing Appeal beyond power or control.

5. In the present case, since the order passed itself was not brought to the knowledge of the petitioner herein, the period as prescribed under Section 35(1) of the Act has to be read from the date of knowledge and not from the date of passing of the order alone.

6. We accordingly, allow this Writ Petition and direct the appellate authority to consider the Appeal of the petitioner on merits without going into the question of delay/limitation.

7. Writ Petition stands allowed.

8. All pending applications filed in this case shall stand disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

August 7, 2024
Ess Kay

[SANJAY VASHISTH]
JUDGE

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