IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-215-2015
Date of decision:- 06.08.2015

M/s Avtar Singh Construction Company (P) Ltd.
...Appellant
Versus

Commissioner of Income Tax, Chandigarh and another
...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Vishal Gupta, Advocate,
for the petitioner.

* * * *

S.J. VAZIFDAR, A.C.J. (ORAL)

Issue notice of motion.

Service is waived, as Ms. Urvashi Dhugga, learned counsel accepts notice on behalf of the respondents.

This is an appeal against the order of the Income Tax Appellate Tribunal dated 31.10.2014 dismissing the assessee's appeal only on the ground that it was barred by limitation of 105 days and that the explanation in support of the application for condonation of delay was not satisfactory.

2. The appeal is admitted on the following substantial question of law:-

Whether the order of the Tribunal was perverse?

3. In view of our finding on this question of law, it is not necessary to consider the other questions raised by the appellant in the appeal.

4. The Tribunal disbelieved the affidavit of the appellant's Managing Director that the delay was on account of his ill health which in fact even required his being hospitalized. The appellant has produced the evidence in support of this contention before us. The appellant having failed

to do so before the Tribunal could not have been held against it. The affidavit was never challenged. There was no reply to the same. The appellant was not called upon to produce the evidence. In such circumstances, the delay ought to have been condoned.

5. The question of law, therefore, is answered in favour of the appellant.

6. The impugned order is set aside.

7. The appellant's appeal be heard on merits.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

06.08.2015
Amodh