IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VATAP-178-2014 (O&M)
Date of decision:- 23.04.2015

M/s Steelco India

...Appellant

Versus

The State of Haryana

...Respondent

VATAP-179-2014 (O&M)

M/s Steelco India

...Appellant

Versus

The State of Haryana

...Respondent

VATAP-207-2014 (O&M)

M/s Chetanya Industrial Corporation

...Appellant

Versus

The State of Haryana

...Respondent

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

Present: Mr. Avneesh Jhingan, Advocate,
for the appellants.

Ms. Mamta Singla Talwar, Assistant Advocate General, Haryana.

* * * *

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

The appeals are admitted on the following substantial questions of law raised in paragraph 11 in each of the appeals:-

> *"(i) Whether in the facts and circumstances of the case, the Tribunal was justified in refusing to condone the delay which had occurred because of the conduct of the counsel?*
>
> *(ii) Whether in the facts and circumstances of the case, the order of the Tribunal is sustainable in law dismissing the appeal as*

time barred especially when the affidavit of the counsel had been filed and no contrary evidence was brought on record by the department?

(iii) Whether in the facts and circumstances of the case, justice should be denied to the appellant because of the limitation even when the matter on merits squarely stands covered in favour of the dealer by the decisions of the Punjab and Haryana High Court?"

2. The appellants' appeals under the Haryana Value Added Tax Act, 2003 before the second appellate authority were dismissed on the ground of delay. The present appeals raise a common question arising out of common facts and are, therefore, disposed of by a common order and judgement.

3. In the above VATAPs-178-179-207-2014, the assessments orders were finalized on 22.02.2008, 23.03.2009 and 23.02.2008 respectively. The first appellate authority dismissed the appeals on 18.05.2009, 15.03.2010 and 18.05.2009 respectively. The delay in filing of the appeals before the Tribunal was of 467, 183 and 426 days respectively.

4. For instance, in VATAP-207-2014, the order of the first appellate authority dated 18.05.2009 was served on the appellant's counsel on 23.06.2009. Unfortunately, the counsel met with an accident on 15.07.2009. In September, 2010, he underwent a surgery. Therefore, the appeal was not filed in time as he was unable to attend the office. The appellant learnt about the orders only when the recovery proceedings commenced. The appellant thereafter approached its counsel and filed the appeal on 01.12.2010. The same counsel appeared in the other proceedings relating to the other two appeals as well. There is no reason why the appellants should face the drastic consequences of the dismissal of their appeals without the same being considered on merits. The above facts constituted more than sufficient reason for condoning the delay and hearing the appeals on merits.

5. The substantial questions of law are, therefore, decided in favour of the appellants. The impugned orders are quashed and set aside. The appeals shall be heard on merits.

6. No order as to costs.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

23.04.2015
Amodh