**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 15131 of 2002 (O&M)

Date of decision: 10.8.2016

M/s The Doaba Co-operative Sugar Mills Limited .. Petitioner

vs

The State of Punjab and others .. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu

Present: Mr. G. R. Sethi, Advocate, for the petitioner.

Ms. Radhika Suri, Additional Advocate General, Punjab with
Mr. D. S. Malik, Assistant Advocate General, Punjab.

Rajesh Bindal, J.

The petitioner has approached this Court seeking quashing of orders framing assessments for the years 1975-76 to 1982-83; the orders passed by the Deputy Excise & Taxation Commissioner (Appeals), Jalandhar, dated 30.11.1995 dismissing the appeals against assessment orders; the orders passed by the Sales Tax Tribunal, Punjab (for short, 'the Tribunal'), dated 9.12.1996; the orders dated 30.9.1997 passed by the Tribunal partly allowing the rectifying application; and the subsequent orders dated 23.5.2002 dismissing the reference petitions.

In the case in hand, against the different orders of assessment passed for the years, as noticed above, the petitioner filed appeals before the First Appellate Authority after huge delay. Those were dismissed by the

First Appellate Authority while not condoning the delay in filing the appeals. Aggrieved against the orders passed by the First Appellate Authority, the petitioner preferred appeals before the Tribunal. The Tribunal vide order dated 9.12.1996 opined that the appeals before the Tribunal were barred by limitation and rejected the same. It was noticed that limitation to file appeal was 60 days and the appeals were filed by the petitioner after that time expired. Thereafter, the petitioner preferred rectification applications stating that the appeals filed before the Tribunal were within limitation from the date of receipt of copy of the order. The contention raised by the petitioner was accepted by the Tribunal and vide order dated 30.9.1997. The earlier order passed by the Tribunal on 9.12.1996 was rectified and it was opined that the appeals before the Tribunal were within limitation. The Tribunal restored the appeals, however, did not hear on merits and subsequently even dismissed the reference petitions.

Learned counsel for the State fairly submitted that as the issue regarding delay in filing of appeals by the petitioner before the First Appellate Authority was not considered on merits by the Tribunal in the first round of litigation and no finding as such was recorded, the matter deserves to be remitted back to the Tribunal for consideration afresh.

Considering the fair stand taken by learned counsel for the State, while setting aside the order dated 9.12.1996, in our opinion, the appeals filed by the petitioner are required to be considered afresh including the issue regarding delay in filing appeal before the First Appellate Authority, as there is no specific finding recorded in the order dated 9.12.1996 passed by the Tribunal whether the first Appellate Authority had rightly refused to condone the delay in filing the appeal.

For the reasons mentioned above, the matter is remitted back to the Tribunal for consideration of appeals filed against the order of the First Appellate Authority in accordance with law.

The parties are directed to appear before the Tribunal on 6.10.2016.

(Rajesh Bindal)
Judge

10.8.2016 (Harinder Singh Sidhu)
vs Judge

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