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HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (T) No. 58 of 2016

1. M/s. Anand Jute Pvt. Ltd., (TIN-22711300507) a Company duly registered under the Companies Act, 1956, having its offices at B-1, Pushpak Apartment, Chhotapara, Nalghar Chowk, through its authorized person Raju Bera, S/o A.K. Bera, aged 33 years, 12, Nilmony Ghoose Lan PO-Mahesh, Distrcit Hooghly (WB)

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary, Department of Commercial Taxes, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (C.G.)
2. The Commissioner, Commercial Tax, Vanijyik Kar Bhawan, Civil Lines, Raipur, District Raipur (C.G.)

---- Respondents

For Petitioners	: Shri T.K. Jha, Advocate
For Respondents	: Shri Gary Mukhopadhyay, Dy. GA

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/05/2017

(1) The petitioner's revision for setting aside ex parte order dated 14.08.2015 was rejected by the Additional Commissioner of Commercial Tax holding that application for setting aside ex parte order is barred by limitation, against which, instant writ petition has been filed questioning the same.

(2) Learned counsel for the petitioner would submit that Section 5 of the Limitation Act is applicable by virtue of provisions contained in Section 66 of the Commercial Tax Act, 1994.

(3) Per contra, counsel for the respondents/State would support the order impugned.

(4) Fact remains that Section 5 of the Limitation Act is applicable by virtue of Section 66 of the Commercial Tax Act, 1994 and the delay can be condoned on establishing sufficient cause for condoning the delay. Learned Commissioner ought to have directed the petitioner to file application for condonation of delay under Section 5 of the Limitation Act, which has not been done. Therefore, impugned order dated 27.02.2016 deserves to be set aside.

(5) Accordingly, the impugned order dated 27.02.2016 is set aside. Application for setting aside ex parte order is restored to the original file of Additional Commissioner, Commercial Tax, Raipur for hearing and disposal in accordance with law. The petitioner is directed to file application for condonation of delay supported by affidavit and in turn the authority concerned shall decide the same in accordance with law on its own merit.

(6) The writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-