

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

CWP No.8960 of 2003 (O&M)
Date of decision : 17.02.2017

M/s Vinko Auto Industries Ltd.

...Petitioner

Versus

The Commissioner, Patiala Division and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Vijay Lath, Advocate for the petitioner.

Mr. R.L. Sharma, Advocate for respondent No.2.

AMIT RAWAL, J. (Oral)

CM No.13833-CWP of 2014

Present application has been filed for condonation of delay of 1153 days in filing the application for restoration of the civil writ petition.

Mr. Vijay Lath, learned counsel for the applicant-petitioner submits that RSA No.103 of 2001 was disposed of on 18.08.2011. However petitioner was not informed about the listing of the aforementioned appeal. Electricity Board assailed the order of the learned Single Judge before the Hon'ble Supreme Court wherein matter was remanded back. On remand, vide judgment had allowed the appeal by holding that Electricity Board cannot recover the amount by overhauling beyond six months. It is in this backdrop of the matter, delay has occurred.

He further submits that delay cannot be attributed to the

counsel. In support of his contention, he has relied upon *Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and others (2013) 12 Supreme Court Cases 649* and as well as *Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others, 1987 AIR, SC 1353*.

Mr. R.L. Sharma, learned counsel appearing on behalf of respondent No.2 submits that no explanation, much less, cogent reasons have been assigned in not approaching the Court within a reasonable period i.e. 30 days from the date of acquisition of the knowledge. Delay is fatal to the application. Application is thus highly belated.

I have heard learned counsel for the parties and appraised the paper book and of the view that once the matter squarely covered in view of judgment rendered in RSA No.103 of 2001 particularly when writ petition was ordered to be heard with aforementioned RSA, petitioner's counsel did not know about the decision of appeal. The appeal on remand was allowed.

In my view, petitioner should be given chance to address the arguments on merits. The reasons given in the application for not approaching the Court is justified.

For the reasons aforementioned, delay of 1153 days in filing the application for restoration of writ petition is allowed. Application is allowed.

CM No.13834-CWP of 2014

For the reasons stated in the application, which is duly supported by an affidavit, application is allowed.

CWP No.8960 of 2003 is ordered to be restored on its original

number.

Main case

Present writ petition is allowed in the same terms as order passed in CWP No.9264 of 2011 titled as M/s Harisar Rice Mills Vs. Punjab State Power Corporation Ltd. and others, decided on 03.02.2017.

17.02.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No