IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

PVR-10-2017 (O&M)

Date of Decision: 28.11.2017

State of Punjab

....Petitioner.

Versus

M/s Om Parkash Surinder Mohan, Kharar

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AMIT RAWAL.

PRESENT: Mr. Pankaj Gupta, Additional Advocate General, Punjab, for the petitioner.

AJAY KUMAR MITTAL, J.

1. This order shall dispose of two Punjab VAT Revisions bearing PVR Nos. 10 and 11-2017 as according to learned counsel for the petitioner, the issues involved therein are identical. For brevity, the facts are being extracted from PVR-10-2017.

2. PVR-10-2017 has been filed by the State of Punjab under Section 68 of the Punjab Value Added Tax Act, 2005 (in short "the Act") against the order dated 24.9.2015 (Annexure P-4) dismissing the prayer of the petitioner to entertain the revision only after deposit of 25% of the additional demand created vide order dated 17.7.2014 (Annexure P-2) passed by the Revisional Authority.

3. A few facts relevant for the disposal of the present revisions as narrated therein may be noticed. The respondent is a works contractor and

was granted Registration No. 03842044739. The dealer filed all the quarterly returns and annual statement. The assessment for the year 2009-10 was finalized by the Assessing Officer vide order dated 14.2.2011 (Annexure P-1) without any additional demand as there was excess Input Tax Credit (ITC) of ₹ 1,42,01,126/-. The said assessment order was taken up in revision under Section 65(1) of the Act and a notice was issued to the respondent. The petitioner-revisional authority vide order dated 17.7.2014 (Annexure P-2) created an additional demand of ₹ 2,48,01,867/- including penalty and interest. Feeling aggrieved, the respondent filed a revision under Section 65(2) of the Act before the Punjab Value Added Tribunal (hereinafter referred to as “the Tribunal”) on 22.8.2014 (Annexure P-3). Along with the revision, the respondent also filed an application (Annexure P-3) for entertainment of revision without deposit of 25% of the demand. The Tribunal vide order dated 24.9.2015 (Annexure P-4) ordered the entertainment of the revision without any deposit of the additional demand by the respondent as the balance outstanding against the petitioner was ₹ 87,85,591/-, i.e., more than 25% of the total tax liability. Hence, the present revisions. Since, the revisions were barred by time, applications under Section 5 of the Limitation Act, 1963 (in short “the 1963 Act”) were also filed for condonation of 714 days' delay.

4. We have heard learned State counsel.

5. It was not disputed that identical issue regarding condonation of inordinate delay in filing the revision petition has been considered by this Court in PVR-7-2017 (The State of Punjab v. M/s Dasm Construction Co. Pvt. Ltd., Mohali) where the delay was of 709 days whereas in the present cases, the delay is 714 days. The said PVR was dismissed by this Court

vide order dated 21.11.2017.

6. Accordingly, the present revisions are also dismissed as time barred.

(AJAY KUMAR MITTAL)
JUDGE

November 28, 2017 **(AMIT RAWAL)**
gbs **JUDGE**

Whether Speaking/Reasoned **Yes**

Whether Reportable **Yes**