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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **ST.APPL. 3/2017**

CM No.23329/2017 (for condonation of 730 days' delay in filing the Appeal)

CM No.27330/2017 (Stay)

SINGH FURN CRAFT PVT. LTD. ..... Appellant
Through: Mr. Balram Sangal & Mr. Sudhir Sangal, Advocates.

versus

COMMISSIONER OFVAT ..... Respondent
Through: Mr. Siddharth Dutta, Advocate with Mr. Amit Sharma, LA (Special Zone).

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% **01.08.2017**

1. There is an extraordinary delay of 730 days in filing this appeal against the order dated 11th February, 2015 passed by the Appellate Tribunal ('AT'), Value Added Tax, Delhi under Section 76(4) of the Delhi Value Added Tax Act, 2004 ('DVAT Act') requiring the Appellant to make a pre-deposit of 20% of the amount of tax and interest and 10% of the amount of penalty in respect of the assessment periods 2007-08, 2008-09, 2009-10, 2010-11 and first quarter of 2011-12.

2. The only reason given for the extraordinary delay is that the

Appellant's review application against the aforementioned impugned order dated 11th February, 2015 preferred under Regulation 24 of the DVAT (Appellate Tribunal) Regulation, 2005 ('AT Regulation') was pending in the AT for over two years and ultimately came to be dismissed only on 20th March, 2017.

3. In the first place, it requires to be noticed that the order dated 20th March, 2017 of the AT, holding that the review petition of the Appellant was without merits, has not been challenged before this Court. Further, the said order notes that the review petition was not maintainable since it was beyond the scope of Regulation 24 of the DVAT Regulation, with the Appellant failing to point out any mistake or error on the face of the record or any other 'sufficient' reason to persuade the AT to recall and review its order dated 11th February, 2015. Even after the dismissal of the review petition on 20th March, 2017, the present appeal was filed only on 5th July 2017. The mere filing of a review petition will not extend the time for filing an appeal against the order under review.

4. Consequently, the Court is not satisfied that any reasonable explanation has been offered by the Appellant for the inordinate delay of 730 days in filing this appeal.

5. Nevertheless, the appeal has also been examined on merits. The AT has, in para 8 of the impugned order dated 11th February 2015, noted that the Appellant did not have a *prima facie* case in its favour and, in those circumstances, the AT was requiring it to deposit 20% of the

demanded tax and interest and 10% of the penalty. The Court is of the view that the aforementioned order suffers from no legal infirmity requiring interference in appeal.

6. Consequently the appeal is dismissed, both on delay and on merits. The applications are dismissed.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

AUGUST 01, 2017
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