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

+ **W.P.(C) 7666/2017**

R.B.L. AGGARWAL

..... Petitioner

Through: Mr.Shanker Raju with Mr.Nilansh
Gaur, Advs.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr.Arun Bhardwaj, CGSC.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **31.08.2017**

C.M. No.31689/2017

Exemption allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 7666/2017

Issue notice. Mr.Bhardwaj accepts notice. Since the point involved in the petition is purely legal and rather short, it is not necessary to call for any reply.

The petitioner has preferred this petition to assail the order dated 19.07.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.3935/2016 and MA No.3701/2016. The Tribunal has rejected the aforesaid application of the petitioner/applicant filed by him to seek condonation of delay in

filing the original application. Consequently, the original application has also been dismissed. The original application has been preferred by the petitioner to assail the penalty dated 02.09.2013 which was implemented only vide order dated 21.10.2016. The case of the petitioner was that against the order of penalty dated 02.09.2013, he had made a representation dated 24.09.2013. Thereafter, he did not hear from the respondents and assumed that his representation has been accepted since the order of penalty was not given effect to. The order of penalty was, however, implemented only on 21.10.2016 and consequently, he preferred the original application along with the application for condonation of delay. The Tribunal has not accepted the submission of the petitioner by holding that the cause of action for assailing the order of penalty arose on the day when the said order was passed on 02.09.2013.

Having heard learned counsel for the petitioner as well as Mr.Bhardwaj, Standing Counsel for Central Government and perused the record including the impugned order, we are of the view that the present is a fit case for condonation of delay even assuming that there was delay in filing of the original application. The petitioner was justified in not initiating the original application soon after the passing of the penalty order since he had made a representation. He was entitled to await the response of the respondent on the said representation. In any event, the implementation of the order of penalty took place only on 21.10.2016 which, in our view, gave yet another cause of action, to the petitioner. In any event, the petitioner

was entitled to condonation of delay in the facts and circumstances of the case. Consequently, the impugned order is set aside and the matter is remanded back to the Tribunal for hearing the original application on merits.

The parties shall appear before the Tribunal on 19.09.2017. No further notice shall be required to be given therefor.

The petition stands disposed of.

VIPIN SANGHI, J

REKHA PALLI, J

AUGUST 31, 2017

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