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

**VATAP No.83 of 2016 (O&M)
Date of decision : 13.08.2018**

M/s Youngman Woollen Mills

... Appellant

Versus

The State of Punjab and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Sandeep Goyal, Advocate
for the appellant.

Mr. Pankaj Gupta, Addl. A.G., Punjab.

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RAJESH BINDAL, J.

CM No.18671-CII of 2016

For the reasons stated in the application, delay of 517 days in filing the appeal is condoned as the petitioner had earlier approached this Court by filing CWP No.10171 of 2015 impugning the same order passed by the Value Added Tax, Tribunal, Punjab (in short 'the Tribunal').

CM stands disposed of.

VATAP No.83 of 2016

The appellant-assessee has approached this Court impugning the order passed by the Tribunal arising out of order dated 23.12.2014 passed in Appeal No.648 of 2013, raising the following substantial questions of law:-

(i) Whether on the facts and circumstances of the case, the assessment order dated 18.03.2011 passed for the year 2005-06 is beyond the period of limitation of three years as prescribed u/s 29(4A) and not sustainable in the eyes of law?

(ii) Whether on the facts and circumstances of the case, the Ld. Tribunal was justified in rejecting the contention of the appellant that the assessment in the present case is barred by limitation ignoring the binding judgments of this Hon'ble Court in the case of State of Punjab Vs Des Raj Bhim Sain and State of Punjab Vs Bhagwanpura Sugar Mills?

(iii) Whether on the facts and in the circumstances of the case the appellant is required to make pre-deposit in terms of Section 62(5) for the entertainment of appeal even though the assessment is barred by limitation?

(iv) Whether on the facts and in the circumstances of the case the impugned order of Tribunal is sustainable in the eyes of law in view of subsequent judgment of this Hon'ble Court in case of Punjab State Power Corporation Ltd. Vs State of Punjab?

2. Short issue sought to be raised by learned counsel for the appellant is that the appellant had filed appeal before the Tribunal against rejection of the application filed by it before the First Appellate Authority for entertainment of appeal without any pre-deposit. While deciding the appeal against that order, the Tribunal exceeding its jurisdiction had commented even on merits of the controversy, which was uncalled for.

3. Learned counsel for the State fairly submitted that issue of limitation regarding framing of assessment, as decided by the Tribunal, may be left open to be argued by the appellant before the First Appellate Authority, in case the appellant deposits 25% of the demand raised, as directed by the Tribunal in the order impugned.

4. Learned counsel for the appellant submitted that in case the appellant is permitted to raise issue of limitation in the appeal pending before the First Appellate Authority, he will comply with the direction of the Tribunal to deposit 25% of the demand raised, within a period of four weeks.

5. After hearing learned counsel for the parties, we dispose of the present appeal permitting the appellant to deposit 25% of the demand raised within four weeks from today. On deposit of the amount, the First Appellate Authority shall hear the appeal filed by the appellant on merits without being prejudiced by the finding recorded by the Tribunal with reference to limitation for framing the assessment.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

13.08.2018
Yogesh Sharma

Whether speaking/reasoned **Yes/ No** ✓

Whether Reportable **Yes/ No**