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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VATAP No.100 of 2018 (O&M)
Date of Decision: October 26, 2018

M/s Girnar Metal and Tubes through its proprietor Sh.Rajeev Mehta
.....Appellant

Versus

State of Haryana
......Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr.Deepak Gupta, Advocate for the appellant.

....

RAJESH BINDAL, J.

The assessee is in appeal against the order passed by the Haryana Tax Tribunal (for short,'the Tribunal') on 03.05.2017 in STA No.320/2013-14, whereby the appeal filed by him for the assessment year 2006-07 was dismissed as the Tribunal did not find any case is made out for condonation of huge delay of 990 days in filing the appeal.

The following substantial questions of law are sought to be raised by the assessee:-

> "1) Whether the Ld.Tribunal has wrongly dismissed application seeking condonation of delay?
>
> 2) Whether appeal of the appellant needs to be decided on merits when appeal of earlier year has already been allowed?
>
> 3) Whether the impugned order is perverse and contrary to the record of the case?"

Assessment of the appellant for the assessment year 2006-07 was framed by the Assessing Authroity vide order dated 10.03.2010. Aggrieved against the order, the appellant preferred appeal, which was dismissed by the Joint Excise and Taxation Commissioner (Appeals) vide order dated 01.02.2011. The appellant being satisfied did not challenge the order any further. Appeal was filed in 09.12.2013 alongwith an application seeking condonation of delay of 990 days in filing thereof. The only ground raised in the application seeking condonation of delay was that case of the appellant for the assessment year 2005-06 was decided by the Tribunal on 19.04.2012 and the matter was remanded back to the Assessing Authority. The appellant remained under the impression that all the cases will be re-decided by the Assessing Authority. However, when he was informed that there being no appeal filed against the order passed by the Joint Excise and Taxation Commissioner(Appeals), the matter cannot be reconsidered, the appellant on advise filed the appeal alongwith application seeking condonation of delay.

The grounds made out by the appellant for seeking condonation of huge delay of 990 days in filing the appeal were not found satisfactory by the Tribunal, hence, application seeking condonation of delay as well as the appeal were dismissed. The Tribunal also noticed the fact that though the plea was sought to be taken by the appellant that for the assessment year 2005-06, the Tribunal had decided the matter in favour of the appellant on 19.04.2012, but still the appeal in question was filed by the appellant before the Tribunal 20 months thereafter.

We do not find any error in the order passed by the Tribunal as at every stage the appellant was represented by a counsel, hence, legal advice was available to him.

For the reasons mentioned above, we do not find any substantial question of law arises in the present appeal. The same is accordingly dismissed.

(RAJESH BINDAL)
JUDGE

October 26, 2018 **(MAHABIR SINGH SINDHU)**
meenuss **JUDGE**

1. Whether speaking/reasoned ? Yes/No
2. Whether reportable ? Yes/No