NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 57 of 2019

- M/s R.K. Associates And Hoteliers Pvt. Ltd. Room No.1, Panchvati, Deepak Nagar, Durg Chhattisgarh - 491001, Through - Signatory Authorized Roshan Mishra, S/o Mahendra Mishra, Aged About 38 Years, R/o Kalka Para, Ward No. 9, Brahmkeshwari Road, Dongargarh, Rajnandgaon Chhattisgarh.

---- Petitioner

Versus

1. Commissioner (Appeals) Of Central And State Goods And Service Tax, GST Bhawan, Tikrapara, Raipur Chhattisgarh.

2. Additional Commissioner Of Central And State Goods And Service Tax Kendriya Utpad Shulka Bhawan, Dhamtari Road, Raipur Chhattisgarh.

---- Respondent

WPT No. 58 of 2019

- M/s Satyam Caterers Pvt. Ltd., Room No. 2, Panchvati Deepak Nagar, Durg Chhattisgarh - 491001 Through Signatory Authorized Vijay Agrawal S/o Late Shri R.S. Agrawal, Aged About 65 Years, R/o Satyam Shivam Sundaram, Deepak, Nagar Durg Chhattisgarh

---- Petitioner

Versus

1. Commissioner (Appeals) Of Central And State Goods And Service Tax G S T Bhawan, Tikrapara Raipur Chhattisgarh.

2. Additional Commissioner Of Central And State Goods And Service Tax, Kendriya Utpad Shukla Bhawan, Dhamtari Road Raipur Chhattisgarh

---- Respondent

WPT No. 59 of 2019

- M/s R.K. Associates And Hoteliers Pvt. Ltd. Room No. 1, Panchvati Deepak Nagar, Durg C. G. 491001, Through Signatory

Authorized Roshan Mishra, S/o Mahendra Mishra Aged About 38 Years, R/o Kalka Para, Ward No. 9, Brahmkeshwari Road, Dongargarh, Rajnandgaon Chhattisgarh

---- Petitioner

Versus

1. Commissioner (Appeals) Of Central And State Goods And Service Tax, GST Bhawan Tikrapara Raipur Chhattisgarh

2. Additional Commissioner Of Central And State Goods And Service Tax Kendriya Utpad Shulka Bhawan, Dhamtari Road Raipur Chhattisgarh

---- Respondent

WPT No. 60 of 2019

- M/s Brandavan Food Products, Plot No. 327, Ward - 18, Near Post Office Deepak Nagar, Durg Chhattisgarh - 491001 Through - Authorized Signatory Vijay Swain, S/o Goverdhan Swain, Aged About 50 Years, R/o M. P. Housing Board, Bhilai Chhattisgarh.

---- Petitioner

Versus

1. Commissioner (Appeals) Of Central And State Goods And Service Tax, G S T Bhawan, Tikrapara Raipur Chhattisgarh.

2. Additional Commissioner Of Central And State Goods And Service Tax, Kendriya Utpaad Shukla Bhawan, Dhamtari Road, Raipur Chhattisgarh

---- Respondent

For Petitioners	Mr. Bhishma Ahluwalia and Mr. Rahul Tamaskar, Advocates
For Respondent/State	Mr. Sudeep Verma, Dy. GA

Order On Board By

Hon'ble Mr. Justice Prashant Kumar Mishra

20/3/2019

1. Heard.

2. These petitions have been preferred against the final order(s) of the CESTAT passed on different dates, affirming the order(s) passed by the Commissioner (Appeals), which had dismissed the appeals on the ground of limitation, as the appeals were preferred after 60 days and thereafter, the condonable period of one month i.e. after total period of 90 days.

3. The facts and issues involved being common in nature in all the above writ petitions, they are disposed of by this common order.

4. The pleadings and documents in WPT No.57 of 2019 is referred for brevity and convenience.

5. The issue raised in these petitions is no longer *res integra* as the same has been concluded by the Supreme Court in the matter of **Singh Enterprises** Vs. **Commissioner of C. Ex., Jamshedpur, 2008 (221) E.L.T. 163 (S.C.)**.

6. At this stage, learned counsel for the petitioners, would refer to an order passed by this Court in the matter of **M/s. Shri Sai Rolling Mill** Vs. **the Commissioner, Custom Central Excise and Service Tax and others** (WA No.322 of 2017, decided on 15.11.2018), wherein, this Court had entertained the Writ Appeal against dismissal of the writ petition and remitted back the matter to the Central Excise Authority for consideration.

7. Facts of the case in the matter of **M/s. Shri Sai Rolling Mill (supra)**| were totally different. In the said case, M/s. Shri Sai Rolling Mill was not the original assessee. It had purchased the debris of old godown tin-shed from an entity, which, in turn, had purchased the same from the original assessee and the demand against the original assessee was sought to be executed against **M/s. Shri Sai Rolling Mill (supra)**. This Court referred to the Full Bench decision of the Gujarat High Court in the matter of **Panoli Intermediate (India) Pvt. Ltd.** Vs. **Union of India and others (AIR 2015 Guj 97 : 2015 SCC Online Guj 570)** to hold that in extraordinary cases, this Court can entertain a petition under Article 226 of the Constitution of India.

8. In the case at hand, the extraordinary situation pressed in service is to the effect that after passing of the assessment order, the petitioner was engaged in personal tragedy as his daughter was facing marital dispute, therefore, the appeal could not be filed within limitation or during the condonable period.

9. The extra ordinary situation pressed by learned counsel for the petitioners is not of such nature, which had paralysed the petitioner's business or his life. It is not in dispute that during the relevant period, the petitioner was carrying on his business, therefore, there was no such pressing emergency which did not permit the petitioner to prefer an appeal before the Commissioner (Appeals).

10. The order passed by this Court in **M/s. Shri Sai Rolling Mill (supra)** is thus distinguishable on facts.

11. The present petitions are squarely covered by the law laid down by the Supreme Court in the matter of **Singh Enterprises (supra).** Therefore, the writ petitions are not maintainable and the same are accordingly dismissed.

Sd/-

(Prashant Kumar Mishra)

Judge

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