IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) STA No.9 of 2019 (O&M)
Date of Decision: 30.05.2019

Principal Commissioner of Goods & Service Tax, Ludhiana

.....Appellant

Versus

Sportking India Ltd.

.....Respondent

(2) STA No.11 of 2019 (O&M)

Principal Commissioner of Goods & Service Tax, Ludhiana

.....Appellant

Versus

Sportking India Ltd.

.....Respondent

(3) STA No.12 of 2019 (O&M)

Principal Commissioner of Goods & Service Tax, Ludhiana

.....Appellant

Versus

Sportking India Ltd.

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sharan Sethi, Advocate for the appellant(s).

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JASWANT SINGH, J. (ORAL)

CM No.6323-CII of 2019 in STA No.9 of 2019 (O&M),
CM No.7197-CII of 2019 in STA No.11 of 2019 (O&M) and
CM No.7061-CII of 2019 in STA No.12 of 2019 (O&M)

Prayer in the above mentioned applications is for condoning the delay of 326 days (**CM No.6323-CII of 2019 in**

STA No.9 of 2019), 285 days (**CM No.7197-CII of 2019 in STA No.11 of 2019**) and 285 days (**CM No.7061-CII of 2019 in STA No.12 of 2019**) delay, respectively, in re-filing the appeals.

For the reasons mentioned in the applications, the same are allowed and the delay in re-filing the appeals is condoned.

Main Cases

This order shall dispose of the aforesaid three service tax appeals as they relate to the same assessee but relating to different assessment years in which common substantial question of law has been raised, which reads as under:

> "(a) Whether the impugned order dated 03.02.2017 passed by the Hon'ble Tribunal can be said to be an order made in accordance with law when it has ignored the facts that the services received by the respondent have been used in relation to negotiation of export related documents with the bank after export (i.e. the services used for early receipt of funds than the actual date prescribed in Letter of Credit), which implies that the services have been used for receiving the funds "ahead of the prescribed date" and not for "receipt of funds" and the same does not fall under the purview of specified services used for export for granting refund/rebate under the provisions of Notification No.41/2012-ST dated 29.06.2012?"

The appeals are directed against the common order dated 03.02.2017 (**Annexure A-3**) passed by the Customs, Excise and Service Tax Appellate Tribunal, whereby the refund claims of the assessee under the notification dated 29.06.2012 have been allowed on the premise that no services have been used by the assessee for export of goods.

Learned counsel for the appellant/revenue states that since the refund amounts involved in the three sets of appeal are less than Rs.20 lacs, at the time of filing of the appeals, he may be allowed to withdraw the present appeals in view of the notification dated 30.12.2016/11.07.2018 issued by the Central Board of Indirect Taxes and Customs, New Delhi. However, he has prayed for keeping the issue of substantial question of law raised open.

Dismissed as withdrawn with liberty as prayed.

A photocopy of this order be placed on the files of other connected cases.

(**JASWANT SINGH**)
JUDGE

(**ARUN KUMAR TYAGI**)
JUDGE

30.05.2019
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No