IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126+256 **ITA No.17 of 2018 (O&M)**
Date of decision : 22.10.2019

Mewat Grit Udyog (Now NKB Infrastructure
Pvt. Ltd.,) Behind PNB Building

...... Appellant

versus

Commissioner of Income Tax, Gurgaon, Haryana

...... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE HARNARESH SINGH GILL

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Present : Mr. Pankaj Jain, Senior Advocate with
Mr. Divya Suri, Advocate for the applicant-appellant.

Mr. Rajesh Sethi, Sr. Standing Counsel with
Mr. Gaurav Kamboj, Advocate
for the respondent-revenue.

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AJAY TEWARI, J. (Oral)

CM-16993-CII-2018

1. This application has been filed for impleadment of respondent namely “Commissioner of Income Tax (Central), Gurgaon” in place of “Commissioner of Income Tax, Gurgaon”.

2. For the reasons recorded, the application is allowed and the amended memo of parties is taken on record.

CM-19344-CII-2019

3. For the reasons recorded, the application is allowed. Document Annexure A-11 is taken on record.

Main case

4. This appeal has been filed against the order of the Tribunal declining to condone delay of 312 days which took place on filing of an appeal by the appellant in a matter under Section 263 of the Income Tax Act, 1961 (for short the Act).

5. The main reason given by the appellant was that the Assessee was not aware of the intricacies of the law and during the original proceedings his counsel had passed away and though the young son of the counsel was his legal advisor yet due to inexperience or lack of knowledge that new legal advisor (the son) did not advise him that the appeal could be filed and the limitation thereof, and it was only when he contacted another, more seasoned practitioner that he was given the advice. The Tribunal rejected the prayer on the ground that once the appellant was represented by a counsel these grounds of lack of knowledge etc. would not be applicable.

6. In our considered opinion, though the reasons given by the Tribunal cannot be stated to be wrong yet it cannot be said that any indefeasible right has accrued in favour of the revenue and whatever prejudice may have been caused to the revenue can be compensated by costs. In the circumstances, we allow the appeal. Condone the delay and direct that the Tribunal shall hear the appeal on merits subject to the payment of costs of Rs.50,000/- which would be borne by the Assessee.

7. Resultantly, the appeal is allowed in the above terms. Parties through their counsel are directed to appear before the Tribunal on 25.11.2019 and the appeal shall be heard as per the provisions of the Tribunal subject to the condition that on the date of appearance the

appellant deposit a sum of Rs.50,000/- as costs by way of draft.

8. Since the main case has been decided, the pending C.M. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

22.10.2019
pooja sharma-I

Whether speaking/reasoned Yes/No
Whether Reportable : Yes/No