IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

VATAP 79/2016
Date of decision:03.09.2019

M/s Jainsons Company

.............Appellant

v.

The State of Punjab

.............Respondent

Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Lalit Batra

Present:- Mr.Alok Mittal,Advocate for the appellant.

Mr.Pankaj Gupta,Addl.AG Punjab.

Jaswant Singh,J,

Appellant-a proprietary concern based at Amritsar is engaged in the business of hosiery. For the purpose of transacting business, it is registered under the Punjab Value Added Tax Act,2005 (for short 2005 Act) as well as under Central Sales Tax Act,1956. Vide Invoice No.2034 dated 1.11.2008, 9 boxes of hosiery goods intended to be sold to M/s NV Export Mumbai, while being transported through a mini bus were detained by ICC Staff on the ground that the goods were hosiery while in the bill the same were shown as knitted clothes. Accordingly, vide order dated 12.11.2008 (A-1) a penalty of Rs.90,329/- was imposed under Section 51(7)(c) of the 2005 Act. Aggrieved against the same,an appeal was filed before DETC(A) which was dismissed vide order dated 18.12.2014(A-2).

Still dis-satisifed, appellant filed appeal before VAT Tribunal,Punjab. This appeal was dismissed vide order A-4, on merits as well as being time barred, having been filed after a delay of 320 days. Hence the present appeal.

The following substantial questions of law have been raised in the present appeal:-

(1)Whether in the facts and circumstances of the case, the appeal of the appellant was delayed and the same was filed within 30 days of communication of the order?

(2)Whether in the facts and circumstances of the case, the order A-4 is sustainable in law?

(3)Whether in the facts and circumstances of the case, without proving the communication of the DETC order earlier to 08.01.2016 the presumption could have been drawn by the tribunal against the appellant?

(4)Whether in the facts and circumstance\s of the case, the delay,if any, should have been condoned by the Tribunal?

Heard learned counsel for the parties and perused the paper book carefully.

The learned Tribunal while dismissing the appeal has categorically held that there was mis-description of the goods; the goods were not being transported in a goods vehicle; and the books of accounts were not produced at the appropriate time and production thereof at a later stage was nothing but an afterthought. As regards the ground of delay, it has been found that the appellate order dated 18.12.2014 was passed in the presence of the Chartered Account of the appellant and until and unless a specific objection is raised to the contrary, it would be presumed that the appellate order was received by the appellant in time. The said presumption remained unrebutted. We do not find any infirmity in the impugned order warranting interference. Further keeping in view the petty amount of penalty being Rs.90,329/- we do not find it a fit case to invoke the Appellate jurisdiction of this Court in the instant appeal.

Dismissed.

(Jaswant Singh)
Judge

03.09.2019. **(Lalit Batra)**
joshi **Judge**

Whether Speaking/reasoned	**Yes/No**
Whether Reportable	**Yes/No**