**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

VATAP 301/2018
Date of decision:03.12.2019

M/s D.S.Pannu & Associates Pvt.Ltd.
.............Appellant

v.

State of Haryana and others
.............Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Sant Parkash

Present:- Mr.Malkiat Singh,Advocate for the appellant.

Jaswant Singh,J.

The appellant-assessee, a private limited company, is engaged in the business of works contract. It is registered under the Haryana Value Added Tax Act, 2003 and Central Sales Tax Act, 1956. The Assessing Officer finalized its assessment proceedings for the assessment year 2008-09 to determine the gross turn over to Rs. 13,57,90,856/- and after allowing deductions on account of labour and services, in case of works contractor finalized and allowed excess of Rs. 57,56,107/- vide order dated 30.03.2012 (A-1). The appellant applied for the refund and received the same. In revisional proceedings, the Revisional Authority created an additional demand of Rs. 6,18,129/- vide order dated 28.05.2015 (A-2). Aggrieved from the same, the appellant filed an appeal before the Haryana Tax Tribunal, Chandigarh, which was dismissed vide order dated 10.07.2018 (A-4), on the ground of delay of almost one year in filing the appeal, hence the present appeal, raising following substantial questions of law:-

(i) Whether in facts and circumstances of the present case, impugned order passed by the Haryana Tax Tribunal is arbitrary, unjust, incorrect and unsustainable in law and fact?

(ii) Whether the Haryana Tax Tribunal can reject the application for condonation of delay merely on the basis of assumptions and presumptions of State plea, which is factually and eventually not correct as per the record?

(iii) Whether the Haryana Tax Tribunal is justifying in rejecting the claim of appellant merely on the basis of technicalities in not affording the opportunity to the appellant to contest his case on merits?

(iv) Whether the order of learned Tax Tribunal is valid and justified while ignoring the principle of law and equity?

Heard learned counsel for the appellant.

The learned Tribunal while dismissing the appeal has observed as under:-

" We have carefully considered the matter. Assessee / appellant through counsel moved application dated 25.04.2016 to the revisional authority for obtaining certified copy of the impugned revisional order with intent to circumvent the law of limitation and to create evidence to depict that the delay in filing the appeal was of thirteen days only although in fact, the delay is of almost one year. Perusal of application dated 25.04.2016 moved by the assessee through counsel for the Revisional Authority for obtaining certified copy of the impugned revisional order reveals that the assessee-appellant already had the original order received from the Revisional Authority and returned the said original order to obtain certified

copy thereof for the purpose of filing appeal. It would clearly show that the impugned revisional order had already been served on the assessee before the assessee moved application dated 25.04.2016 to obtain certified copy thereof. Thus, obtaining of certified copy of the impugned revisional order by the assessee-appellant was a ploy to avoid the bar of limitation in filing the present appeal.

The plea of the assessee-appellant that the branch office at House No. 212, Sector 10, Panchkula had been closed down and therefore, copy of impugned revisional order sent at the said address was not received by the assessee is also untenable. Revisional notice and subsequent notices for hearing before the Revisional Authority were all issued at the same address of House No. 212, Sector 10, Panchkula and pursuant thereto, the assessee-appellant was represented by the counsel before the Revisional Authority. Thus, the assessee had been receiving the communications sent to it at the said address and the assessee similarly also received copy of the impugned revisional order dated 28.05.2015 sent to it at the said address. This conclusion is further clinched by the fact that the assessee had infact received the said order and was possessing the same while moving application dated 25.04.2016 to obtain certified copy thereof. It is thus apparent that the assessee was served with certified copy of impugned revisional order dated 28.05.2015 within a few days thereof and therefore, the present appeal filed on 28.07.2016 was filed after delay of almost one year after excluding the limitation period of sixty days. There is no ground whatsoever much less sufficient ground for condoning the said long and inordinate delay. Infact, the assessee-appellant tried to cheat the Tribunal by pretending that the delay was of thirteen days only by misrepresenting the facts before the Tribunal.

For the reasons aforesaid, we find no ground to condone the long and inordinate delay of almost one year in filing the present appeal. Resultantly, the delay condonation application is dismissed and the appeal is also dismissed as time-barred. "

Learned counsel for the appellant has not been able to point out any error or illegality in the findings recorded by the Tribunal warranting interference by this Court. Consequently, the appeal stands dismissed.

(Jaswant Singh)
Judge

03.12.2019. **(Sant Parkash)**
joshi **Judge**

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