

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

**CEA No. 9 of 2019 (O&M)
Decided on : 04.02.2019**

Commissioner of Central Excise and Service Tax

... Appellant(s)

Versus

M/s Ludhiana Beverages Pvt. Ltd.

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

PRESENT: Mr. Tajender K. Joshi, Sr. Standing Counsel
for the appellant-revenue(s).

AJAY KUMAR MITTAL, J. (Oral)

CM No. 1084-CII of 2019

This is an application under Section 151 CPC, seeking condonation of delay of 337 days in re-filing the appeal.

After hearing learned counsel for the revenue and perusing the averments made in the application, which is supported by an affidavit of the learned counsel for the revenue, the same is allowed and the delay of 337 days in re-filing the appeal is hereby condoned.

CM stands disposed of accordingly.

CM No. 1087-CII of 2019

Allowed as prayed for.

CEA No. 9 of 2019 (O&M)

Learned counsel for the appellant-revenue states that the tax effect involved in the present case is 'Nil'. In support thereof, an internal communication (E-mail dated December 19, 2018), has been filed in Court today, wherein, the tax effect involved in the present case has been shown as ₹ 0.00 (Nil). The said communication is taken on record, subject to all just exceptions. Office to tag the same at the appropriate place.

Learned counsel for the appellant-revenue further states that he has

instructions to withdraw the present appeal in view of the instructions issued by the Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes & Customs (Judicial Cell), dated 11th July, 2018, whereby, the monetary limit has been fixed for filing the appeals in the High Courts at ₹50,00,000/-. In Para No.3 of the aforesaid instructions, it has also been stated that wherever, monetary limit is less, the appeal shall be withdrawn and the said instruction is applicable to all the pending appeals in the High Courts. However, he prayed that liberty be granted to the revenue to file an application for revival of the appeal in case something survives therein.

3. Dismissed as withdrawn with liberty as prayed for. It is, however, clarified that withdrawal of the appeal by the revenue shall not be taken to be affirmation of order of the Tribunal on merits. Further, the legal issue as claimed by the revenue is being left open to be adjudicated in an appropriate case.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

February 04, 2019

J.Ram

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