

\$~20

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 30th October, 2019

+ W.P.(C) 9159/2019

BRIGHTPOINT INDIA PVT LTD Petitioner
Through: Mr. Karan Sachdev and
Ms. Avisha Khatri, Advs.

Versus

UNION OF INDIA & ANR Respondents
Through: Mr. Akshay Makhija, CGSC with
Ms. Kirti Awasthi, Adv. for
respondent no. 1
Mr. Amit Bansal, Sr. Standing with
Mr. Aman Rewaria and Ms. Annu
Singh, Advs. for respondent no. 2

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER
30.10.2019

%

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This writ petition has been preferred challenging the order passed by the Revisional Authority of the respondents dated 6th August, 2018 (Annexure P-1 to the memo of this writ petition). The revision was preferred by the petitioner on 14th June, 2016, which was rejected by the Revisional Authority. No notice was given by the Revisional Authority to the petitioner that there was a defective filing. Thereafter, a personal hearing was also given to the petitioner by the Revisional Authority and vide order dated 6th August, 2018, the Revision Application was dismissed only on the ground that court fee of ₹1,000/- was not paid on

time. Following which the petitioner had paid court fee of ₹1,000/- in the month of 18th April, 2018.

2. Counsel appearing for the petitioner submits that there is a decision given by the Larger Bench of the Tribunal in Glyph International Ltd. V. Commissioner of C. Ex & S.T., Noida, 2013 (31) STR430 (Tribunal-Larger Bench), which was affirmed by the Allahabad High Court in Commissioner of Central Excise v. Glyph International Ltd., 2014 (35) STR 30 (Allahabad) that, no court fee to be paid by the petitioner in Revision Application. It is further submitted by the counsel for the petitioner that the present case, as well, an application was preferred by the petitioner for a drawback claims, the same was not allowed by the respondent, and the impugned order was passed on 19th May, 2015 (Annexure P-3 to the memo of this writ petition), against which an appeal was preferred by the petitioner, which was dismissed *vide* order dated 15th March, 2016 (Annexure P-2 to the memo of this writ petition), which was dismissed.

3. Thereafter, a Revision Application was preferred on 14th June, 2016. It has been pointed out that the Revisional Authority has no Registry to point out the defects in the filing of petitions before the revisional authority. In view of the aforesaid decision of Allahabad High Court, petitioner had paid court fee of ₹1,000/- on 18th April, 2018. After hearing on merits, the Revisional Authority dismissed the Revision Application filed by the petitioner on the ground that the same was time barred because court fee was paid on 18th April, 2018; whereas Revision Application was preferred on 14th June, 2016. Hence, original applicant has preferred the present writ petition challenging the order passed by the Revisional Authority dated 6th August, 2018 (Annexure P-1) dismissing the revision application.

4. Having heard counsel for both the sides and looking to the facts and circumstances of the case, it appears that petitioner is claiming a drawback claim of ₹31,04,845/-. A Revision Application was dismissed as stated hereinabove, against which an appeal was also preferred, but the same was also dismissed. A Revision Application was preferred on 14th June, 2016. It appears that Revisional Authority has no Registry, which could point out the defect in filing. No defect could be pointed out in the year 2016; whereas the defect was only pointed out in the year 2018. Hence, the court fee of ₹1,000/- was paid on 18th April, 2018. Nonetheless, defect was pointed out on 20th March, 2018 and immediately thereafter, on 18th April, 2018 the court fee of ₹1,000/- was paid by the petitioner. Thus, it cannot be said that the Revision Application, which was preferred by the petitioner, was barred by any limitation. This aspect of the matter has not been appreciated by the Revisional Authority while deciding the Revision Application as stated hereinabove.

5. We therefore quash and set aside the order passed by the Revisional Authority dated 6th August, 2018 (Annexure P-1 to the memo of this writ petition). Revision Application is revived at its original number and the same will be decided by the Revisional Authority on its own merits in accordance with law and on the basis of evidence on record as well as after giving adequate opportunity of being heard to the petitioner as early as possible and practicable, preferably within a period of eight weeks from the date of receipt of the order of this Court. The petitioner will approach the Revisional Authority on 18th November, 2019 between 11 am to 1 pm. Thereafter, the Revisional Authority may give a suitable time for further hearing to the petitioner.

6. With these observations, this writ petition is allowed and disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

OCTOBER 30, 2019

r.bararia

