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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VATAP-63-2019 (O&M)
Date of decision :18th March, 2020

Excise and Taxation Commissioner, Haryana ....Appellant

Vs.

M/s Excel Crop Care Ltd. and Another ....Respondents

CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN

Present:- Ms. Mamta S.Talwar, Deputy Advocate General, Haryana.

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Dr. S. Muralidhar, J.

CM No. 6327-CII of 2019 (exemption)

1. Allowed, subject to all just exceptions.

CM No. 6326-CII of 2019 (delay of 469 days in filing the present appeal)

2. There is a delay of 469 days in filing the appeal. The explanation offered for the delay is given in paras 2, 3 and 4 of the application, which read as under:

> "2.That the accompanied appeal is being filed after the expiry of appeal period due to the administrative reasons. As the matter was decided on 08.08.2017 and the certified copy of the order was received in the Head Office on 12.08.2017, thereafter matter was put up before the Superintendent (Legal) for further action on 21.08.2017. After examining the file, the matter was sent to Joint Director (legal-1) on 22.08.2017.
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> 3. That thereafter, file was again put up for discussion before Additional Commissioner on 31.08.2017 for further necessary action. And after discussion the matter was discussed on before the Legal committee. Thereafter

> on the matter was discussed before the committee and a view was taken that the appeal be filed before the Hon'ble High Court.
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> 4. That on 21.06.2018 letter was received from the competent authority for filing the appeal before the Hon'ble High Court and after receiving the letter the matter was prepared by submitting before the office of Ld. Advocate General Haryana. Thereafter a letter was written to the Additional General Haryana. Thereafter a letter was written to the Additional Chief Secretary to Government of Haryana Excise and Taxation department for issuance of instruction for filing of appeal on 05.07.2018 and office of the Legal Remembrancer and Administrative Secretary to Government, Haryana Law and Legislative Department, Civil Secretariat, has issued necessary direction for filing the appeal under provision of para 20.4 C of the Law Department Manual vide his office memo No.13144/CA-147/2018 dated 01.08.2018."

4. The Supreme Court has in ***State of U.P. v. Amar Nath Yadav (2014) 2 SCC 422*** followed its earlier decision in ***Postmaster General v. Living Media India Limited (2012) 3 SCC 563*** where it was observed as under:

> "In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the Government Departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

5. More recently, the Supreme Court in its order dated 9th May, 2019 in SLP (C) Diary No. 13348 of 2019 (***The State of Bihar v. Deo Kumar Singh***) has reiterated the position in ***Chief Post Master General*** *(supra)* in the following terms:

> "We are of the view that a clear signal has to sent to the Government Authorities that they cannot approach the Court as and when they please, on account of gross incompetence of their officers and that too without taking any action against the concerned officers. No detail of this delay of 728 days have been given as if there is an inherent right to seek condonation of delay by State Government. The law of limitation apparently does not apply to the State Government according to its conduct. That such condonation of delay is no more admissible on the pretext of Government working lethargy is clear from the judgment of this court in The *Chief Post Master General* v. *Living Media India Ltd.* [2012(3) SCC 563]."

6. In that view of the matter, the Court does not find a satisfactory explanation for a delay of 469 days in filing the appeal to have been offered by the Applicant/Appellant. The application is accordingly dismissed.

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7. As the application for condonation of delay of 469 days in filing this appeal has been dismissed, the appeal is also dismissed

(S. MURALIDHAR)
JUDGE

18th March, 2020 **(AVNEESH JHINGAN)**
anil **JUDGE**

Whether speaking/reasoned = Yes/No.

Whether reportable = Yes/No.