IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

VATAP No. 55 of 2019 (O&M)
DECIDED ON: 17th MARCH , 2020

EXCISE AND TAXATION COMMISSIONER, HARYANA

.....APPELLANT

VERSUS

M/S ADANI GAS LIMITED 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. 5605-CII of 2019 (exemption)

1. Allowed, subject to all just exceptions.

CM No. 5604-CII of 2019 (delay of 252 days in filing the appeal)

2. There is a delay of 252 days in filing the appeal. The explanation offered for the delay is given in para 4 of the application, which read as under:

> "*4. That the order dated 02.04.2018 was dispatched by Ld. Haryana Tax Tribunal on 05.04.2018 and the same was received by the office of Excise and Taxation Commissioner, Haryana, Panchkula on 01.05.2018. Thereafter, the Excise and Taxation Commissioner, Haryana, Panchkula issued directions to the Deputy Excise and Taxation Commissioner (ST), Faridabad (North) to prepare the draft of appeal and also wrote to the Legal Remembrancer, Haryana for issuance of instructions for filing the appeal before the Hon'ble High Court which is mandatory condition before filing an appeal. Thereafter, the present appeal was prepared. The worthy Legal Remembrancer, Haryana vide letter dated 07.02.2019 received in the office of appellant on 15.02.2019 issued instructions for filing appeal. Thus, the appeal is being filed with a delay of 252 days. The delay, whatsoever, occurred is neither intentional nor*

wilful but the same has occurred in the process of getting permission to file the present from the Government. So, the same deserves to be condoned in the interest of justice and fair play."

3. The Supreme Court has in ***State of U.P. v. Amar Nath Yadav (2014) 2 SCC 422*** reiterated 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."*

4. The reasons given in the present application are wholly unsatisfactory. Moreover, there is no explanation for every day's delay. A delay of 252 days cannot be said to be routine.

5. With there being no satisfactory explanation, the application for condonation of delay of 252 days in filing the appeal is dismissed.

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6. Accordingly, the appeal is dismissed.

(S. MURALIDHAR)
JUDGE

17th MARCH, 2020
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(AVNEESH JHINGAN)
JUDGE

1. *Whether speaking/reasoned* *Yes/No*
2. *Whether reportable* *Yes/No*