

CWP No.5228 of 2001 (O&M)
CWP No.13258 of 2002 (O&M)

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

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CWP No.5228 of 2001 (O&M)
Date of decision: 03.03.2020

Union of India ... **Petitioner**
Versus

Assessing Authority of Haryana and Anr. ... **Respondent**

CWP No.13258 of 2002 (O&M)
Date of decision: 03.03.2020

Union of India ... **Petitioner**
Versus

Assessing Authority of Haryana and Anr. ... **Respondent**

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Karminder Singh, Standing Counsel for,
Ministry of Railways with
Mr. P.S. Walia, Advocate
for the petitioner.

Mr. Samarth Sagar, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

1. These two petitions have been filed by the Union of India through
Divisional Engineer-I, Northern Railway, Ambala Cantt. against the
impugned orders, whereby the order/s holding the payment of water cess

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by the petitioner has been upheld.

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2. Since the issues involved in both the petitions are common, both the petitions are decided by the common order. For the sake of convenience, the facts are being taken from a writ petition bearing CWP No.5228 of 2001.

3. The primary ground for upholding the recovery of cess by the appellate authority was the fact that the appeal was beyond limitation. In this connection Sub Rule 3 of Rule 9 of The Water (Prevention and Control of Pollution) Cess Rules, 1978 is quoted as follows:

“9.Appeal.-(1) Any consumer aggrieved by an order of assessment made under Section 6 or by an order imposing penalty made under Section 11 may appeal in Form II annexed hereto, to a Committee (hereinafter referred to as the appellate committee) consisting of-

xxxxx

(3) Such appeal shall be preferred within a period of thirty days from the date of communication of the order of assessment or the order imposing penalty on the appellant:

Provided that if the Chairman of the appellate committee is satisfied that there was good and sufficient reason for the delay in preferring the appeal, he may, for reasons to be recorded in writing, allow the appeal, to be preferred after the expiry of the aforesaid period of thirty days and before the expiry of forty-five days from the date of communication of the order of assessment, or the order imposing penalty, on the appellant”.

4. As per counsel for the petitioner, the assessment order was received by them on 22.02.1996 but the appeal was filed after more than one and half year on 12.01.1998. It is sought to be argued that after the receipt

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of the assessment order dated 22.02.1996, the matter remained in consultation and consequently it was only on 12.12.1997 that the matter was finally decided and the claim was finally rejected and therefore the appeal was within a period of limitation.

5. Likewise in the second petition i.e. CWP No. 13258 of 2002, the same argument has been taken to get over the bar of limitation.

6. In our considered opinion, these arguments cannot be accepted. The internal consultation of the railways could not extend the period of limitation.

7. Consequently, both the petitions stand dismissed.

8. Since the main cases have been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

03.03.2020

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Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No