IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

VATAP No. 241 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. 14034-CII of 2019 (exemption)

1. Allowed, subject to all just exceptions.

CM No. 14033-CII of 2019 (delay of 235 days in filing the appeal)

2. There is a delay of 235 days in filing the appeal. The explanation offered for the delay is given in paras 4 & 5 of the application, which read as under:

> "*4. That the order dated 23.08.2018 was dispatched by Ld. Haryana Tax Tribunal on 30.08.2018 and the same was received by the office of appellant on 13.09.2018. 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. The worthy Legal Remembrancer, Haryana vide letter Memo No. 2832 dated 07.02.2019 issued instructions for filing appeal and received in the office of appellant on 15.02.2019. Thereafter, the present appeal was prepared.*
> *5. That the appellant was buzy in assessment work which was time bound and to be done up to 31.03.2019. Further due to declaration of Lok Sabha General Election 2019, as per direction of Chief Election Officer, Haryana the appellant was assigned to election duty with immediate effect by District Election Officer, Faridabad for disposal of law and*

order in Faridabad constituency till completion of Lok Sabha General Election, 2019. So the appellant/assessing authority could not prepare the appeal in time. Now the draft of appeal has been prepared. Thus, the appeal is being filed with a delay of 235 days. The delay, whatsoever, occurred is neither intentional nor wilful 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 235 days cannot be said to be routine.

5. With there being no satisfactory explanation, the application for condonation of delay of 235 days in filing the appeal is dismissed.

VATAP No. 241 of 2019 (O&M)

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*