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

**VATAP No.47 of 2018 (O&M)
Date of decision : 09.01.2020**

M/s Micron Chemicals Ltd., Sonepat .... Appellant

versus

State of Haryana & ors. ...... Respondents

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

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Present : Mr. Rajiv Agnihotri, Advocate
for the appellant.

Ms. Mamta Singla Talwar, DAG, Haryana.

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<u>AJAY TEWARI, J. (Oral)</u>

1. This appeal has been filed against the order of the Tribunal upholding the order of the Higher Level Screening Committee which, in turn had refused to condone the delay of six years in filing of the appeal by the appellant.

2. The brief facts are that the appellant had been granted an exemption from sales tax for a period of 9 years from 27.03.1997 to 26.03.2006. However by an ex-parte order dated 15.09.2003 that exemption was withdrawn and consequent to that by an order dated 17.06.2004 the assessment was framed by the Sales Tax Department. It was the case of the appellant that in the year 1999 a fire had taken place in the factory and that is why the production had stopped and, in fact on 27/28th September, 2000 the Haryana Financial Corporation had taken

possession of the factory. It was further the case of the appellant that the notices for withdrawal of the exemption and the subsequent proceedings under the Central Sales Tax Act, 1956 were not in the knowledge of the appellant because the notices thereof were all sent to the factory which, as mentioned above was in the possession of the Haryana Financial Corporation.

3. As per the appellant it had come to know about these orders in the year 2009 and since then had been repeatedly making applications for supply of copies and only after the copies were supplied were appeals filed both before the Sales Tax Authorities as well as before the Tribunal. As regards, its appeals against the demand notices by the Sales Tax Department, the Joint Excise and Taxation Commissioner (Appellate Authority) condoned the delay and entertained the appeal but by the impugned order the Tribunal refused to condone the delay and dismissed the appeal.

4. The precise grievance of the learned counsel for the appellant is that the condonation of delay in filing the sales tax appeal was acquiesced by the State of Haryana and once that is so there was no reason for it to have opposed the condonation of delay in the appeal before the Tribunal.

5. We find considerable merit in the case. The delay (which in both the sets of cases emanate from the same circumstances) was condoned and State of Haryana did not challenge that order. Further, it is pertinent to mention that no communication was ever addressed to the registered office of the appellant-company.

6. Learned State counsel has argued that the condonation of delay by the appellate authority under the Sales Tax Act need not have been challenged because that was only a consequential order.

7. Be that as it may the fact is, and which has not been denied, no notice of the withdrawal of the exemption was ever served or sent to the registered office of the appellant.

8. In our opinion, notice should have been sent to the registered office of the company.

9. In the circumstances, the appeal is allowed. The matter is remanded back to the Tribunal with a direction to condone the delay and hear the case on merits especially when it was to their knowledge that the factory stood closed and possession was taken by the Haryana Financial Corporation.

10. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

January 09, 2020
pooja sharma-I

Whether speaking/reasoned Yes/No
Whether Reportable : Yes/No