

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

258

CWP-14473-2020
Date of decision : 11.05.2022

GURCHARAN DASS

..... Petitioner

VERSUS

**BOARD OF DIRECTORS, PUNJAB STATE COOP. SUPPLY AND
MARKETING FEDERATION LTD, (MARKFED) AND ORS**

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Shiv Kumar, Advocate
for the petitioner.

Mr. Abhishek Arora, Advocate
for the respondents.

HARSIMRAN SINGH SETHI, J. (Oral)

The present petition has been filed for setting aside the order dated 26.07.2013 (Annexure P-6) passed by respondent No.3, order dated 27.08.2015 (Annexure P-8) passed by respondent No.2 as well as the order dated 12.03.2020 (Annexure P-11) passed by respondent No.1.

During the course of hearing, learned counsel for the petitioner submits that the petitioner will be satisfied in case, the revision petition filed by the petitioner is heard and decided on merits by the respondents. He further submits that after the order was passed by the Appellate Authority on 27.08.2015 (Annexure P-8), the petitioner filed a second appeal before the Board of Directors, which appeal was filed within limitation but the same was returned back on the ground that instead of second appeal, the revision

should be preferred before the said authority and as thereafter the petitioner retired, he could not file the revision immediately, which was filed in the year 2017, which revision petition was kept pending for more than 3 years by the respondents before the same was dismissed on the ground of delay. Learned counsel further submits that the delay in filing the said revision petition is not there in the present case especially when the same revision petition by treating the same as “second appeal” was filed initially within the limitation by the petitioner and therefore, there was no delay in filing the revision petition and hence the respondents are under an obligation to decide the said revision petition on merits.

Learned counsel appearing on behalf of respondents submits that though, initially second appeal was preferred by the petitioner against the order passed by the Managing Director dated 27.08.2015 (Annexure P-8) within the time frame but as second appeal is not maintainable, the petitioner was requested to file revision petition which was filed by the petitioner after two years and therefore, the authorities concerned rightly dismissed the same by treating the same beyond limitation.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, the petitioner availed the remedy against the order dated 27.08.2015 (Annexure P-8) by filing “second appeal” though, revision petition should have been filed but that is only a misnomer and the respondents themselves should have treated the “second appeal” as revision and should have decided the same rather than returning the said second appeal to be filed afresh by treating it as revision petition. Even otherwise, once a second appeal was filed by the petitioner within the time frame before

the Board of Directors, the delay, at the best, can only be in refiling of the said appeal by correcting the nomenclature from second appeal to that of revision. In that case, the rejection of the revision by the respondents by the impugned order dated 12.03.2020 (Annexure P-11) by treating the same as delayed is arbitrary.

Keeping in view the above, order dated 12.03.2020 is set aside and the respondents are directed to decide the revision petition filed by the petitioner on merits by passing appropriate order.

Allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

11.05.2022

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Whether speaking/reasoned	Yes
Whether Reportable :	No