103 CM-813-CWP-2023 in/and RA-CW-14-2023 in CWP-7200-2020

KARAMBIR NAIN VS STATE OF HARYANA AND OTHERS

Present: Mr. Vivek Singla, Advocate for the applicant-petitioner.

Mr.Sharan Sethi, Addl.AG, Haryana.

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CM-813-CWP-2023

Instant application seeks condonation of delay of 30 days in filing the accompanying Civil Miscellaneous application i.e. RA-CW-14-2023.

Notice in the application.

Mr.Sharan Sethi, learned Addl. AG, Haryana accepts notice.

A copy of the application already stood furnished.

In view of the averments made in the application and by recording a 'no objection' from counsel opposite, prayer is allowed.

Delay condoned.

Application disposed of.

RA-CW-14-2023

Even though the instant application has been filed under Order 47 Rule 1 read with Section 151 CPC seeking review of an order dated 16.11.2022 passed by this Court while disposing of CWP No. 7200 of 2020, yet counsel clarifies that it is essentially a clarification which is being sought and not a review.

In the main writ petition a mandamus has been sought for release of the mandatory quota as prescribed under the Excise Policy for the year 2019-20 for the remaining quarter of January, February and March, 2020.

On 16.11.2022 the writ petition was disposed of as not pressed as per statement made by counsel representing the petitioner that she had instructions not to pursue the petition.

The clarification that is now sought is that the remedy for the petitioner of filing an appeal before the Excise and Taxation Commissioner seeking waiver of penalty/duty under the Excise Policy for the year 2019-20 be not foreclosed by virtue of withdrawing the writ petition.

Notice in the application.

Mr.Sharan Sethi, learned Addl.AG, Haryana accepts notice.

In view of the clarification being sought we are of the view that there would be no need of eliciting written response to the application on behalf of the State.

The instant review application is disposed of with a clarification that it would be open for the petitioner to approach the Excise and Taxation Commissioner by way of filing an appeal as regards waiver of penalty/duty under the Excise Policy for the year 2019-20.

Such liberty be incorporated in the order dated 16.11.2022 that was passed while disposing of CWP No. 7200 of 2020.

It is, however, made clear that the liberty so being granted would not be construed as an expression of opinion of this Court with regard to maintainability thereof.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

(SANJIV BERRY)
JUDGE

20. 01.2023
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