

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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VATAP-3-2022 (O&M)
Date of decision:-28.07.2023

M/S SUNDER TRADING COMPANY

.... Appellant

VS

THE STATE OF HARYANA AND ANR

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sandeep Goyal, Advocate
Mr. Nitish Bansal, Advocate for the appellant.

Ms. Mamta Singla Talwar, DAG, Haryana.

Ritu Bahri, J. (Oral)

The appellant has come up in appeal against the order dated 02.07.2019 Annexure A-8, whereby the Haryana Tax Tribunal, Chandigarh, has dismissed the appeal of the appellant, on account of non-appearance of the appellant.

Learned counsel for the appellant has referred to the judgment of this Court, ***Messrs Wood Workers and Packing Case works, Moga Vs. The State of Punjab and another***, (1971) 28 STC 291 (P&H), whereby a division Bench while examining Rule 59(2) of the Punjab General Sales Tax Rules (for short 'the Act') has held that the appellate Authority cannot dismiss an appeal in default and has

observed that appeal cannot be dismissed in default and it should be disposed of on merits irrespective of the fact whether the appellant or his counsel appeared on the date of hearing or not and has held that Section 20(6) of the Act is repugnant to Rule 59(2) of the Act. Further, he has referred to the judgment, ***Balaji Steel Re-rolling Mills Vs. Commissioner of Central Excise and Customs***, (2014)16 SCC 360, wherein the Hon'ble Supreme Court while referring to the Income Tax Appellate Tribunal Rules, 1946, has observed that the Tribunal cannot dismiss the appeal filed by the appellant for want of prosecution and it ought to have decide the appeal on merits even if the appellant or its counsel was not present when the appeal was taken up for hearing.

In view of the above, present appeal is allowed. Order dated 02.07.2019 Annexure A-8 is set aside and the matter is remanded back to the appellate authority to pass a fresh order on merits after hearing learned counsel for the parties.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

28.07.2023
pooja saini

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No