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

105 ***2023:PHHC:141986-DB***

VATAP-14-2023 (O & M)
Date of Decision: 07.11.2023

Excise and Taxation Commissioner, Haryana .....Appellant(s)

Versus

M/s. Vamani Overseas (P) Ltd. and another ....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Sharan Sethi, Addl. A.G., Haryana.

G.S.SANDHAWALIA, J. (Oral)

1. The present appeal has been filed against the order dated 25.09.2019 passed by the Haryana Tax Tribunal, Chandigarh in STA 101/2019-20 (Annexure A3), which is barred by 611 days. Accordingly, the State has filed CM-14486-CII-2023 for condonation of the same.

2. As per the averments made in the application, the order was received in the office of the appellant on 18.10.2019 and necessary directions were issued to prepare the draft of the appeal and also a communication was addressed to the Legal Remembrancer, Haryana for issuance of instructions for filing the appeal. The dates on which the directions were issued or the Legal Remembrancer was communicated with have not been mentioned in the application. The only sufficient cause tried to be spelled out is that in view of the order of the Apex Court, the period of limitation from 15.03.2020 till 28.02.2022 was to be excluded in view of the order passed in *Suo Moto Writ Petition (Civil) No.3 of 2020.* It is in such circumstances, sufficient cause is sought to be made out.

3. A perusal of the paper book would go on to show that even if the allegations are taken to be correct, still sufficient cause is not made out since the appeal was only filed on 31.07.2023, which is after a period of 1 year and 5 months from the date of limitation which expired on 28.02.2022. Not a single averment has been made in the application which is dated 18.07.2023 regarding the period which was spent after 28.02.2022 so that this Court could consider whether any sufficient cause is made out. It is apparently a certificate case filed by the State to cover up its own lapse. The Apex Court has time and again reiterated that the Government cannot be considered on a different footing for considering the issue of limitation. Reliance can be placed upon the judgment of the Apex Court passed in ***Office of the Chief Post Master General and others vs. Living Media India Ltd. and another, (2012) 3 SCC 563*** wherein, the following principles have been laid down:-

> *12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the*

Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

13) 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 several months/years due to considerable degree of procedural red-tape in the 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 government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay."

4. In such circumstances, in the absence of any sufficient cause being made out, as noticed above, we do not wish to entertain the present appeal which is barred by limitation and application i.e. CM-14486-CII-2023

is dismissed. Accordingly, the consequential effect is that the appeal is also not to be taken into consideration on merits and the same is also dismissed.

(G.S. SANDHAWALIA)
JUDGE

07.11.2023
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking Yes
Whether reportable No