

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

227-2

CWP-24664-2021 (O&M)  
Date of decision:-11.05.2023

M/s L & W Constructions Pvt. Ltd.

.... Petitioner

Vs

The Additional Commissioner (Appeals) and others

...Respondents

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

Present: Mr. Raghavendra C.R. Advocate with  
Mr. Shivansh Malik, Advocate for the petitioners.

Mr. Sharan Sethi, Senior Standing counsel  
for respondents No.1 to 4.

Mr. Satya Pal Jain, Additional Solicitor General with  
Mr. Sudhir Nar, Senior Panel Counsel  
for respondent No.5- UOI.

**Ritu Bahri, J. (Oral)**

In the instant petition, the petitioner-M/s L & W Constructions Pvt. Ltd. seeks for quashing of the order dated 10.02.2021, Annexure P-5, whereby Additional Commissioner Appeals Gurugram, has allowed the departmental appeal against the petitioner. Learned counsel for the petitioner at the outset, does not press his prayer with respect to prayer Nos. (i) and (ii).

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He only restricts his prayer for setting aside the order dated 10.02.2021 on the ground that by passing the order dated 10.02.2021, Annexure P-5, the petitioner was proceeded against ex-parte and at page No. 232 of the paper book in para 6, it has been observed by the appellate authority that personal hearing was fixed for 11.01.2021, 18.01.2021 and 29.01.2021 but the petitioner (respondent in that appeal) did not come forward to attend any personal hearing and he was proceeded ex-parte. It is also important to mention here that none had appeared on behalf of the appellant i.e. the department, as well.

The dispute in the present case is with respect to the refund which was given to the petitioner on account of unutilized LTC due to non-submission of endorsements. The payment of refund was being challenged in appeal on the ground that the petitioner had not given the endorsements on the relevant invoices.

Learned counsel for the respondents has informed today that the endorsements have now been prepared by the petitioner and the same has been handed over to to him today in court.

Keeping in view that this order has been passed without giving opportunity of hearing to the petitioner, instant petition is allowed. Order dated 10.02.2021, Annexure P-5 is set aside and the matter is remanded back to the appellate Authority, Additional Commissioner (Appeals), Gurugram to pass a fresh order in accordance with law after examining the endorsements dated

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13.12.2021 issued to the petitioner on his invoices by the competent authority. The appellate authority will decide the appeal expeditiously within a period of three months, in accordance with law and the plea of the petitioner will not be rejected on the ground of limitation.

( RITU BAHRI )  
JUDGE

( MANISHA BATRA )  
JUDGE

11.05.2023  
pooja saini

|                           |          |
|---------------------------|----------|
| Whether speaking/reasoned | : Yes/No |
| Whether reportable        | : Yes/No |