

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

240-2

CWP-24363-2022

Date of decision: 13.02.2023

KUTUMBH CARE PVT. LTD.

.... Petitioner

Versus

THE CHIEF COMMISSIONER AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Sajjan Kumar Aggarwal and Mr. Ojas Bansal, Advocates
for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana.

RITU BAHRI, J. (oral)

Learned counsel for the petitioner has relied upon the notification dated 25.01.2023 attached with connected case i.e. CWP-24845-2022 as Annexure P-15 whereby, if an order against which appeal has been filed is uploaded on common portal, then the final acknowledgement shall be considered as the date of filing of the appeal and further it is provided that even if an order against which appeal has been filed is not uploaded on common portal, and a self certified copy of the said decision is submitted within 7 days, the said date of submission shall be considered as the date of filing of the appeal.

He further submits that in the present case, the petitioner had filed the appeal along with digitally uploaded order on the common portal and hence, the appeal could not be dismissed on the ground that certified copy was not attached with the appeal. He has further referred to an order passed by this Court in CWP-12128-2020 decided on 26.08.2020, where in similar circumstances, the appeal which had been dismissed on the ground of not filing of certified copy, was challenged and the writ petition was allowed by setting aside the impugned

order and matter was remanded back by giving directions to the appellate authority to decide the appeal on merits.

The reference of the above order passed by this Court in CWP-12128-2020 on 26.08.2020, on the technical flaw that the certified copy was not filed along with the appeal and only uploaded copy was attached, the appeal cannot be dismissed on this technical ground.

Further the petitioner has also relied upon the notification dated 25.01.2023 attached with connected case i.e. CWP-24845-2022, which further clarifies this aspect.

In the present case, since the uploaded copy was already part of the appeal, it would amount to substantial compliance of Rule 108 of the Haryana Goods and Service Tax Rules, 2017 and the Joint Commissioner would not dismiss the appeal by the impugned order dated 22.06.2022 (Annexure P-15) on the ground that the appellant had not submitted the certified copy of the order impugned therein.

Since this fact has been further clarified by the notification dated 25.01.2023, the writ petition is being allowed and the order dated 22.06.2022 (Annexure P-15) is set aside and matter is being remanded back to the competent authority to pass a fresh order on merits without going into the question of filing of certified copy delayed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

13.02.2023
Jyoti-IV

Whether speaking/reasoned: Yes/No.
Whether reportable : Yes/No