

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

120

2024:PHHC:010336-DB

CWP-1752-2024

Date of Decision: 25.01.2024

M/s. Star Health and Allied Insurance Company Ltd.

.....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Kamal Sawhney, Advocate,
for the petitioner (appearing through video conferencing).

Mr. Rishabh Kapoor, Sr. Standing Counsel,
for respondent Nos.2 to 4.

G.S.SANDHAWALIA, J. (Oral)

1. The petitioner, in the present petition filed under Article 226 of the Constitution of India, challenges the Order-in-Appeal in Appeal Nos.85-87/2022-23 dated 26.04.2023 (Annexure P-1) passed by respondent No.2 whereby the said three appeals were rejected on the ground of limitation keeping in view the fact that the appeals were filed electronically on 27.05.2022 but manually on 10.06.2022 and, therefore, Rule 108(3) of the CGST Rules, 2017 prescribing that on the date of uploading of the order, a final acknowledgement would be issued though the date of provisional acknowledgement would be considered as the date of filing of the appeal, provided where the decision or order appealed against is not filed with the appeal, the appellant shall submit a self certified copy of the order within 7 days. It is in such circumstances, the appeals have not been taken up on merits and have been dismissed.

2. Notice of motion.

3. Mr. Rishabh Kapoor, Sr. Standing Counsel accepts notice on

4. It has been brought to our notice that in ***CWP-12128-2020, L.G. Electronics India Pvt. Ltd. vs. Union of India and others*** decided on 26.08.2020, the co-ordinate Bench as such, on the concession given, had directed the Appellate Authority to decide the appeal on merits rather than dismissing it on the ground that the certified copy had not been appended but only a photocopy had been attached. Reliance is placed upon the judgment passed by another co-ordinate Bench in ***CWP-3602-2023, M/s. Suman Industries vs. State of Haryana and others*** decided on 27.02.2023 (Annexure P-17) wherein, while keeping in view the amendment made as per the notification dated 25.01.2023 w.e.f. 26.12.2022 and the fact that the provision of certified copy of the decision or the order appealed has been done away though subsequently the relief had been granted by setting aside the order and a direction had been given to the Appellate Authority to decide the appeal on merits.

5. Keeping in view the above, we are of the considered opinion that once the procedure as such has also been modified to the extent that Rule 108(3) provides that where the decision or order appealed against has not been uploaded on a common portal and the final acknowledgement indicating appeal number is to be issued by the Appellate Authority, the date of issuing of the provisional acknowledgement shall be considered as date of filing of the appeal. Thus, the mode of accepting the electronic filing has been made. The same modification has been done for the purposes of ensuring that the rules of procedure are handmaids of justice. Therefore, the appeal having been dismissed on the ground of technicalities, we feel that the order is not sustainable since apparently the appeal was filed within the period of

6. Accordingly, the Order-in-Appeal in Appeal Nos.85-87/2022-23 dated 26.04.2023 (Annexure P-1) passed by respondent No.2 is set aside with directions to the Appellate Authority to decide the appeal on merits. Writ petition stands allowed accordingly.

(G.S. SANDHAWALIA)
JUDGE

25.01.2024
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(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No