



CWP-4520-2024 (O&M)

- 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

CWP-4520-2024 (O&M)
Decided on : 05.08.2024

Asia Exporters and others

. . . Petitioner(s)

Versus

Union of India and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Deepak Gupta, Advocate and
Ms. Kavita Sharma, Advocate
for the petitioner(s).

Mr. Sourabh Goel, Sr. Standing Counsel with
Ms. Geetika Sharma, Advocate and
Ms. Anju Bansal, Advocate
for the respondent(s).

SANJEEV PRAKASH SHARMA, J. (Oral)

CM-9903-CWP-2024

I. Present application has been filed for seeking permission to place on record the accompanying replication along with annexed annexure(s).

II. Allowed as prayed for. Replication along with enclosed annexure(s) filed along with application are taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

CM stands disposed of.

CM-11739-CWP-2024

I. Present application has been filed for seeking permission to place on record the orders dated 16.07.2024 (Annexure P-9 & P-10).



CWP-4520-2024 (O&M)

- 2 -

II. Allowed as prayed for. Orders dated 16.07.2024 (Annexures P-9 & P-10) filed along with application are taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

CM stands disposed of.

CM-11740-CWP-2024

I. Present application has been filed under Article 226 of the Constitution of India read with Section 151 CPC, seeking disposal of the main writ petition after pre-poning the date of hearing, which is fixed for 10.09.2024.

II. Notice of this application to the non-applicant/respondents.

III. Mr. Sourabh Goel, Sr. Standing Counsel, accepts notice on behalf of the non-applicants/respondents, and raises no objection in allowing the prayer made in the application by the applicants-petitioners.

IV. In view of above, prayer made in the application is allowed. Accordingly, date of hearing in the main case i.e. CWP-4520-2024, is advanced from 10.09.2024 to 05.08.2024 i.e. today itself.

CM stands disposed of.

CWP-4520-2024 (O&M)

1. Learned counsel for the petitioners has invited the attention of the Court to the order passed by the Supreme Court in relation to the present company, in SLP No. 39206 of 2023, arising out of the judgment passed on 22nd February 2023, passed by the High Court of Gujarat in SCA No. 10699 of 2021. It is stated that for the purpose in relation to the assessments at Gujarat, notice was issued on 24th March, 2021, relating to Assessment Years 2011 to 2016. The Supreme Court has observed as under:-



“ *Delay in filing the special leave petition is condoned.*

Having heard learned counsel for the petitioners and learned counsel for the respondent(s) – caveator, we find that this special leave petition arises out of Special Civil Application No.10699 of 2021 wherein, the period of assessment was 2011-2016. In respect of the said period, the date of issuance of the show cause notice is 24.03.2021 which means that the show cause notice was issued 5 to 10 years thereafter. There is no explanation whatsoever for the delay in issuance of notices to the respondents-herein.

In the circumstances, a challenge made to the show cause notices before the High Court was successful inasmuch as the action of the respondent authority was held to be belated and hit by delay and latches. Consequently, the show cause notices were quashed. We do not think that the impugned order would call for any interference in this case.

Hence, the special leave petition is dismissed.

Pending application(s), if any, shall also stand disposed of.”

2. In the present case, the period involved is Assessment Year 2013 to 2016, while the show cause notice has been issued on 1st April, 2021.

In view of above law, we find that the action of the respondent authority was belated and accordingly, the show cause notice deserves to be set-aside.

3. We also noticed that a review petition bearing Review Petition (Civil) Diary No(s). 9707 of 2024, titled as, ‘Union of India and another vs. M/s Asia Exporters & Others’, which was decided on 16th July, 2024. The



Supreme Court observed therein as under:-

“ *Delay condoned.*

Having carefully gone through the Review Petition, the order under challenge and the papers annexed therewith, we are satisfied that there is no error apparent on the face of the record or any merit in the Review Petition, warranting reconsideration of the order impugned.

The Review Petition is accordingly, dismissed.

Pending application(s) shall stand disposed of.”

4. It is also noticed that in similar matters relating to Union of India vs. Ragav International, in one of SLP(C) No.24022 of 2023, which was preferred with regard to the belated notices, wherein, the show cause notices had been set-aside by the Gujarat High Court. The Supreme Court vide order dated 19.10.2023, observed as under:-

“ *Delay in filing the special leave petition is condoned.*

Having heard learned counsel for the petitioners and learned counsel for the respondent(s)-caveator, we find that this special leave petition arises out of Special Civil Application No.7165 of 2021 wherein, the period of assessment was 2011-2015. In respect of the said period, the dates of issuance of the show cause notices are 16.03.2021, 01.04.2021, 01.04.2021 and 25.05.2021 which means that the show cause notices were issued 6 to 10 years thereafter. There is no explanation whatsoever for the delay in issuance of notices to the respondents-herein.

In the circumstances, a challenge made to the show cause notices before the High Court was successful inasmuch as the



action of the respondent authority was held to be belated and hit by delay and latches. Consequently, the show cause notices were quashed. We do not think that the impugned order would call for any interference in this case.

Hence, the special leave petition is dismissed on the basis of delay and latches.

Pending application(s), if any, shall also stand disposed of.”

5. We, accordingly, allow the present writ petition and set-aside the show cause notice dated 01.04.2021 as well as the proceedings initiated on the basis of said show cause notice.

Pending misc. application(s), if any, also stands disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

August 05, 2024
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No