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

CWP-25563-2024

Date of Decision: 23.10.2024

M/S RELCOM TECHNOLOGY P LTD

..... Petitioner

Versus

**THE APPELLATE AUTHORITY UNDER THE PAYMENT OF
GRATUITY ACT AND ORS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. S.K Verma, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 17.07.2024 (Annexure P-6) whereby Appellate Authority has dismissed appeal against order dated 22.02.2024 (Annexure P-4) passed by the Controlling Authority.

2. The Controlling Authority constituted under Payment of Gratuity Act, 1972 (for short '1972 Act') vide order dated 12.05.2022 (Annexure P-2) determined liability of the petitioner to the tune of ₹3,57,403/-. The authority concluded that petitioner is liable to pay aforesaid amount to respondent No.3 on account of gratuity. The petitioner preferred application before Controlling Authority seeking setting aside of order dated 12.05.2022 (Annexure P-2). The Controlling Authority dismissed said application on 24.11.2022. Despite dismissal of said application, the petitioner did not prefer appeal before Appellate



Authority and on 29.05.2023 filed another application before Controlling Authority seeking recalling of *exparte* order dated 12.05.2022 (Annexure P-2). The Controlling Authority by order dated 22.02.2024 (Annexure P-4) rejected application of the petitioner who, at this stage, preferred appeal before Appellate Authority seeking setting aside of order dated 22.02.2024 whereby application seeking setting aside of order dated 12.05.2022 (Annexure P-2) was dismissed.

3. Mr. S.K Verma, Advocate for the petitioner submits that petitioner did not receive copy of order dated 12.05.2022 (Annexure P-2) and it was an *exparte* order, thus, appeal could not be preferred within time. The petitioner at the first instance moved an application before Controlling Authority seeking recalling of *exparte* order. The second application seeking recalling of order was dismissed in 2024 and appeal before Appellate Authority was filed in 2024. The said appeal was filed within 120 days from the date of receipt of order, thus, Appellate Authority could condone delay and there was no reason to dismiss appeal on the ground of delay.

4. I have heard the argument and perused the record.

5. From the perusal of record, it is evident that Controlling Authority passed *exparte* order on 12.05.2022 (Annexure P-2) whereby liability of the petitioner was determined. The petitioner did not prefer appeal before Appellate Authority whereas filed application before Controlling Authority seeking recalling of order. There is no provision which permits Controlling Authority to recall its order. It is trite law that a quasi-judicial authority in the absence of specific power cannot review its order. It can only rectify clerical mistakes. The petitioner in the



absence of specific provision moved an application seeking recalling of order dated 12.05.2022 (Annexure P-2). The said application was dismissed but dismissal did not detain it from filing second application. It filed second application only on the sole ground that there is change in the authority. The authority was not required to pass fresh order rejecting application because first application was already dismissed and there was no reason to pass fresh order. It was ill advice or wrong decision of the petitioner. Nevertheless, Controlling Authority passed second order rejecting application seeking recalling of original order. The second order was passed on 22.02.2024 (Annexure P-4). The petitioner did not file appeal within 120 days from 22.02.2024. The appeal was filed on 17.07.2024 (Annexure P-6). At this stage, petitioner started claiming that it had not even received order dated 12.05.2022 (Annexure P-2). The argument of petitioner is misconceived and misleading because it is highly improbable that petitioner filed application in 2022 and 2023 seeking recalling of order which as per it was not in its possession.

6. Proviso to sub-section (7) of Section 7 of 1972 Act categorically provides that Appellate Authority may condone delay of maximum 60 days. For the ready reference, Section 7 (7) of 1972 Act is reproduced as below:

“(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be; may, if it



is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days."

7. Concededly, there was delay of more than 60 days on the part of petitioner and application seeking condonation of delay was filed.

8. In view of judgment of Supreme Court in **Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others (2008) 3 SCC 70** and **CCE Vs. Hongo (India) (P.) Ltd (2009) 5 SCC 791**, the Appellate Authority could not condone the delay and appeal was rightly dismissed on the ground of limitation.

9. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

23.10.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No