

CWP No.27468 of 2023 -1-
and other connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

243

Date of Decision: 24.10.2024

1.

CWP No.27468 of 2023

M/s Vasudeva Engineering

Versus

The Union of India and others

..... Petitioner

..... Respondents
2.

CWP No.18475 of 2023

M/s LNM Fire

Versus

State of Haryana and others

..... Petitioner

..... Respondents
3.

CWP No.26077 of 2023 (O&M)

M/s Yellow Lilly Hospitality Pvt. Ltd.

Versus

State of Haryana and others

..... Petitioner

..... Respondents
4.

CWP No.18591 of 2023

M/s A One Trader

Versus

State of Punjab and others

..... Petitioner

..... Respondents
5.

CWP No.5397 of 2023

M/s Radhe Enterprises

Versus

Union of India and others

..... Petitioner

..... Respondents

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6. CWP No.7816 of 2024

FPI Auto Parts India Private Limited	 Petitioner
Versus	
State of Haryana and others	 Respondents

7. CWP No.8517 of 2024

M/s Himalyan Ply Boards	 Petitioner
Versus	
State of Haryana and another	 Respondents

8. CWP No.12742 of 2024

Sukhbir Singh	 Petitioner
Versus	
State of Haryana and others	 Respondents

9. CWP No.13358 of 2024

M/s Mukesh Enterprises	 Petitioner
Versus	
State of Haryana and others	 Respondents

10. CWP No.22946 of 2024

M/s Kbeera Hydraulic Engineers Private Limited	 Petitioner
Versus	
State of Haryana and others	 Respondents

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11. CWP No.15632 of 2024

M/s Tricool India Gurugram

..... Petitioner

Versus

State of Haryana and others

..... Respondents

12. CWP No.7684 of 2024

M/s Sai Furnace and Technologies

..... Petitioner

Versus

State of Haryana and others

..... Respondents

13. CWP No.10089 of 2024

M/s Baba Chhunni Trading Co.

..... Petitioner

Versus

State of Haryana and others

..... Respondents

14. CWP No.10105 of 2024

M/s Sadhu Ram

..... Petitioner

Versus

State of Haryana and others

..... Respondents

15. CWP No.16348 of 2024

Sunita Rani

..... Petitioner

Versus

State of Haryana and others

..... Respondents

16. CWP No.16353 of 2024

Safle Network Private Limited

..... Petitioner

Versus

State of Haryana and others

..... Respondents



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and other connected cases**

17. CWP No.24025 of 2024

Kamal Arora

..... Petitioner

Versus

State of Haryana and others

..... Respondents

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

Present: Mr. Arav Gupta, Advocate
for the petitioner (in CWP No.27468 of 2023).

Mr. Kunal Dawar, Advocate
for the petitioner (in CWP No.18475 of 2023).

Mr. Munish Gulati, Advocate
for the petitioner (in CWP No.26077 of 2023).

Mr. Arvind Galav, Advocate
for the petitioner (in CWP No.18591 of 2023).

Mr. Tejeshwar Singh, Advocate
for the petitioner (in CWP No.5397 of 2023).

Mr. Deepak Gupta, Advocate
for the petitioner (in CWP No.7816 of 2024).

Mr. Avneet Singh, Advocate
for the petitioner (in CWP No.8517 of 2024).

Mr. Nikhil Goyal, Advocate
for the petitioner(s) (in CWP No.12472 of 2024,
CWP-16348-2024, CWP-16353-2024 & CWP-24025-2024).

Mr. Rajat Khanna, Advocate
for the petitioner (in CWP No.13358 of 2024).

Mr. N.K. Sharma, Advocate and
Mr. Bhavishay Sharma, Advocate
for the petitioner (in CWP No.22946 of 2024).

Mr. Babbar Bhan, Advocate
for the petitioner (in CWP No.15632 of 2024).



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Mr. Kashish Sahni, Advocate and
Mr. Narender Singh, Advocate
for the petitioner(s) (in CWP No.7684 of 2024,
CWP-10089-2024 & CWP-10105-2024).

Mr. Sourabh Goel, Senior Standing Counsel,
for respondent No.2 (in CWP No.18475 of 2023).

Ms. Mamta Singla Talwar, DAG, Haryana.

Mr. Rishabh Kapoor, Advocate
for the respondent (in CWP No.27468 of 2023).

Mr. Bhuvnesh Satija, DAG, Punjab.

Ms. Mamta Singla Talwar, DAG, Haryana.

SANJEEV PRAKASH SHARMA, J (ORAL)

CM-9169-CWP-2024 in CWP-26077-2023

No case for passing the interim order is made out.

Accordingly, the application is dismissed.

Main Cases

1. This order shall dispose of 17 writ petitions, i.e., CWP-27468-2023, CWP-18475-2023, CWP-26077-2023, CWP-18591-2023, CWP-5397-2023, CWP-7816-2024, CWP-8517-2024, CWP-12742-2024, CWP-13358-2024, CWP-22946-2024, CWP-15632-2024, CWP-7684-2024, CWP-10089-2024, CWP-10105-2024, CWP-16348-2024, CWP-16353-2024 and CWP-24025-2024 as a common issue is involved.

2. The short question involved in all these petitions is that whether the Appellate Authority hearing appeals in terms of Section 107 of the Act was legally correct in rejecting the appeals which had been filed after the requisite time period laid down in Haryana Goods and Services



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Tax Act, 2017 (for short 'the Act'). We find that while the petitioners had paid the pre-deposit for hearing on the appeal, it is an admitted position that the appeals had been filed beyond the limitation period that even beyond the period which could be condoned under the provisions of Section 107 and 35(1) of the Act while the said provision provides for a period of three months for filing of an appeal with additional period of 30 days for condonation, the provisions under Section 107 are not condemnable to Limitation Act and therefore, the delay cannot be further condoned. The condonation being provided under the Act itself. In view thereto, the action of the Appellate Authority in rejecting the appeals cannot be said to be illegal or unjustified. However, Hon'ble Supreme Court in the case of *M/s Tecnimont Pvt. Ltd. Vs. State of Punjab and others 2019 INSC 1054*, the similar issue relating to non-deposit of in cases where the pre-deposit had not been made, and the appeals were rejected before the Supreme Court where the Hon'ble Supreme Court observed that the order was not unjustified in rejecting the appeals but left it open for the High Court to exercise its jurisdiction under Article 226 considering the facts of each case to condone the requirement of pre-deposit in the case of *M/s Steel Kart Vs. State of Haryana and others*, passed in *CWP-17348-2024* before this Court, examined an issue where the order challenged in appeal, since it was not in the knowledge of the petitioner within the time prescribed and this Court exercised its powers under Article 226 and directed the Appellate Authority to consider the appeal of the petitioner(s) on merits without going into the question of delay/limitation. Thus, it is apparent as to why the concerned Appellate Authority would be bound by the provisions of the



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Act, the same would not curtail the powers in any manner provided under Article 226 of this Court to exercise its jurisdiction in the facts of the case and condoned the delay.

3. The provisions of the said Act, 2017 are for the purpose of providing relief to the businessman in an appropriate matter where the demand may have been raised wrongfully or illegally by preferring an appeal. If on account of delay which may occur due to several reasons, relating to business affairs, the businessman is precluded from filing of an appeal, he/she would become remedy less. The cancellation of registration of GST has cascading effect on all the other businessman too who are receiving the goods from the concerned businessmen whose GST registration has been cancelled. Therefore, in these circumstances, it is essential that a finality should be arrived at between the decision taken for cancellation of the registration and also at the same time remedy should be available which is efficacious to the concerned aggrieved person.

4. Accordingly, we hold that the powers to hear the appeal in terms of Section 107 of the Act would not be subject to filing of an appeal within the time prescribed wherein, it would not in any manner deprive a person from claiming the right of hearing of an appeal by filing of a writ petition before this Court for condonation of delay.

5. Now considering the aforesaid issue which is purely legal, we find that no reply from the respondents is required to be filed and we condoned the delay also as the petitioner(s) have already submitted the pre-deposit amount for hearing of the appeal.

6. The appeals shall be heard and decided on merits by the

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Appellate Authority, preferably, within a period of three months from today.

7. With the aforesaid observations, the present petitions are
allowed.
8. Pending miscellaneous application, if any, shall also stand
disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

24.10.2024
D.Bansal

(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No