110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:162425-DB

CWP-32840-2024 (O&M)
Date of Decision: 05.12.2024

M/s Indo Omakase Pvt. Ltd. …Petitioner

Vs.

Excise and Taxation Department, Gurugram …Respondent

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

Present: Mr. Vishal Sharma, Advocate for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana.

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SANJEEV PRAKASH SHARMA, J.(Oral)

1. Learned counsel has relied upon the judgment passed by this Court in bunch of cases i.e. CWP No.27468 of 2023 & other connected cases, titled as, **M/s Vasudeva Engineering vs. The Union of India and others**, decided on 24.10.2024, to submit that this Court has considered the law as laid down by the Supreme Court in **M/s Tecnimont Pvt. Ltd. vs. State of Punjab and others, 2019 INSC 1054**, and has condoned the delay.

2. Notice of motion.

3. Ms. Mamta Singla Talwar, DAG, Haryana, accepts notice on behalf of the respondent and submit that the case may be decided on merits in terms of the judgment passed by this Court in Vasudeva Engineering India's case (supra).

4. We have considered the submissions made in our judgment dated 24.10.2024 (supra), wherein, we held as under:-

> *"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.*
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> *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.*
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> *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."*

5. Keeping in view thereto, we are satisfied that the writ petition should be allowed with a direction to the Appellate Authority to hear the appeal on merits and accordingly, we condone 21 days delay in filing of the appeal while exercising powers under Article 226 of the Constitution of India. The Appellate Authority is directed to rehear the appeal and decide the same on merits.

6. The writ petition is allowed in the aforementioned terms.

7. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

05.12.2024
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1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No