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

**CWP-21455-2025**
**Date of Decision : 29-07-2025**

**M/S PRINT MAN ASSOCIATES PVT LTD**
**........Petitioner**

**VERSUS**

**JYOTI THAKUR AND OTHERS**
**........Respondent(s)**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Divyam Singh, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

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**HARSIMRAN SINGH SETHI, J. (Oral)**

1. Learned counsel for the petitioner concedes the fact that the appeal preferred by the petitioner against the order 26.06.2024, copy of which has been appended as Annexure P-2 passed by the controlling authority under the Payment of Gratuity Act, was beyond the prescribed period of limitation and the same was dismissed as such.

2 On being asked to prove as to whether, the order dated 04.02.2025 (Annexure P-4) is perverse either to the facts or evidence on record, learned counsel for the petitioner has not been able to show that the same is perverse keeping in view the fact that the said appeal was preferred beyond the prescribed period of limitation.

3. Once, the appeal was preferred after the expiry of prescribed period of limitation and the same has been dismissed on the ground of

expiration of prescribed period of limitation and once, the order of the controlling authority has attained finality, the petitioner cannot agitate against the said order so as to by-pass the order of the appellate authority wherein, the appeal was dismissed beyond the prescribed period of limitation.

4. Further, the question with regard to condonation of delay when the prescribed period of limitation has already been expired, has already been decided by the Hon'ble Supreme Court of India in ***Civil Appeal No.8276-2019 titled as Superintending Engineer/Dehar Power House Circle, Bhakra Beas Management Board vs. Excise and Taxation Officer, Sunder Nagar.*** Relevant paragraph of the said judgment is as under:-

> "19. In Commissioner of Customs, Central Excise, Noida v. Punjab Fibres Ltd., Noida, (2008) 3 SCC 73, a question arose of condonation of delay in filing reference application to the High Court. It has been held that section 5 is not applicable. In the said case, the court has followed the decision in Singh Enterprises v. Commissioner of Central Excise, Jamshedpur & Ors., (2008) 3 SCC 70. In Singh Enterprises (supra), it has been held:
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> "6. At this juncture, it is relevant to take note of Section 35 of the Act which reads as follows:
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> "35. Appeals to Commissioner (Appeals).—(1) Any person aggrieved by any decision or order passed under this Act by a Central Excise Officer, lower in rank than a Commissioner of Central Excise, may appeal to the Commissioner of Central Excise (Appeals) [hereafter in this Chapter referred to as the Commissioner (Appeals)] within sixty days from the date of the communication to him of such decision or order: Provided that the Commissioner (Appeals) may if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days. (2) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner."
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> 8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of statute are not vested with jurisdiction to condone the delay beyond the permissible period provided under the statute. The period up to which the prayer for condonation can be accepted is statutorily provided. It was

submitted that the logic of Section 5 of the Limitation Act, 1963 (in short "the Limitation Act") can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days, but in terms of the proviso, further 30 days' time can be granted by the appellate authority to entertain the appeal. The proviso to subsection (1) of Section 35 makes the
position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only up to 30 days after the expiry of 60 days, which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days' period."

5. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

6. Present petition in dismissed.

29-07-2025 **(HARSIMRAN SINGH SETHI)**
Sapna Goyal **JUDGE**

NOTE: Whether speaking: YES
Whether reportable: NO