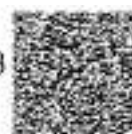


VATAP-309-2019 (O&M) and connected cases

2026:PHHC:019828-DB



101-a **IN THE HIGH COURT OF PUNJAB AND HARYANA**
 AT CHANDIGARH

1. **VATAP-309-2019 (O&M)**
Date of Decision: February 09, 2026

EXCISE AND TAXATION COMMISSIONERAppellant

Versus

M/S HAFED AND ANOTHER Respondents

2. **VATAP-2-2020 (O&M)**

EXCISE AND TAXATION COMMISSIONERAppellant

Versus

M/S CONFED AND ANOTHER Respondents

3. **VATAP-3-2020 (O&M)**

EXCISE AND TAXATION COMMISSIONERAppellant

Versus

M/S HARYANA AGRO INDUSTRIES CORPORATION LTD AND ANOTHER Respondents

4. VATAP-332-2019(O&M)

EXCISE AND TAXATION COMMISSIONERAppellant

Versus

M/S HAFED, KAITHAL AND ANOTHER Respondents

5. **VATAP-333-2019(O&M)**

EXCISE AND TAXATION COMMISSIONERAppellant

Versus

M/S HARYANA STATE WAREHOUSING COPORATION (P) LTD AND ANOTHER
..... Respondents

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6. **VATAP-342-2019 (O&M)**
EXCISE AND TAXATION COMMISSIONERAppellant

Versus

M/S HARYANA AGRO INDUSTRIES CORPORATION LTD AND ANOTHER Respondents

7. **VATAP-343-2019 (O&M)**
EXCISE AND TAXATION COMMISSIONERAppellant

Versus

M/S HARYANA STATE WAREHOUSING CORPORATION (P) LTD AND ANOTHER Respondents

8. **VATAP-362-2019 (O&M)**
EXCISE AND TAXATION COMMISSIONERAppellant

Versus

M/S HARYANA STATE WAREHOUSING CORPORATION AND ANOTHER Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI

Present: Ms. Mamta Singla Talwar, DAG, Haryana.

Mr. Ajay Jagga, Advocate for the respondents.

LISA GILL, J.

1. All the abovesaid eight appeals are taken up together for hearing and adjudication at request and with consent of learned counsel for parties.

2. All the said appeals except VATAP-362-2019 arise from common order dated 22.05.2017 passed by learned Haryana Tax Tribunal, Chandigarh (for short, 'Tribunal'). VATAP-362-2019 arises from impugned order dated 02.05.2018 passed by learned Tribunal.

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3. All these appeals have been listed together as the issue involved, it is stated, is identical. Assesseees/respondents in these matters are all Government Agencies i.e. The Haryana State Co-operative Supply and Marketing Federation Limited (HAFED), The Haryana State Federation of Consumers' Co-operative Wholesale Stores Ltd. (CONFED), Haryana Agro Industries Corporation Ltd., Haryana State Warehousing Corporation (P) Ltd., all of whom are engaged in procurement of wheat, paddy, oil seeds etc. Present appeals relate to paddy. Assesseees after procurement of wheat got it milled from different millers and received back 67% of rice by weight of paddy while by-products i.e. broken rice (nakku), rice bran, paddy husk etc. were left with millers in lieu of milling charges besides paying nominal rate of Rs.15/- per quintal to millers for the work of milling. Assessing authority vide different assessment orders afforded benefit of 100% Input Tax Credit to the assessee. Revisional authority vide impugned order(s) passed, held that by-products corresponding to 33% of weight of paddy was left with millers otherwise than by way of sale, therefore, Input Tax Credit corresponding to 33% paddy was reversed. Learned Tribunal, vide impugned order dated 22.05.2017 (whereby 7 appeals were decided) and order dated 02.05.2018 set aside the order(s) of revisional authority. Aggrieved therefrom present appeals have been filed by Department.

3. At the outset, it is to be noted that there is huge delay in filing of these appeals. Details thereof are as under:-

Sr. No.	Appeal	Impugned order	Period of Delay
1.	VATAP-309-2019	22.05.2017	759 days
2.	VATAP-2-2020	22.05.2017	774 days
3.	VATAP-3-2020	22.05.2017	774 days
4.	VATAP-332-2019	22.05.2017	774 days
5.	VATAP-333-2019	22.05.2017	774 days
6.	VATAP-342-2019	22.05.2017	774 days
7.	VATAP-343-2019	22.05.2017	774 days

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8.	VATAP-362-2019	02.05.2018	434 days
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4. In the application seeking condonation of delay in VATAP-309-2019 arising out of impugned order dated 22.05.2017, it is stated that after receipt of impugned order dated 22.05.2017 on 31.05.2017 matter was discussed in the office of Additional Excise and Taxation Commissioner wherein it was decided to seek additional information on the issue and it was finally decided on 28.01.2019 that appeal be filed challenging order dated 22.05.2017. Approval was granted by Commissioner on 15.02.2019. Legal Remembrancer, Haryana issued instructions on 14.03.2019 for filing the appeal. Excise and Taxation Officer-cum-Assessing Authority was deputed for election duty on 09.04.2019. Appeal was thereafter finally prepared and filed on 22.08.2019. In other appeals arising from impugned order dated 22.05.2017 similar, if not identical, grounds have been raised.

5. In VATAP-362-2019, it is stated that upon receipt of impugned order dated 02.05.2018 on 01.06.2018, matter was discussed and it was finally decided on 26.06.2019 to file an appeal. Thereafter, matter was under discussion; draft of appeal was examined and vetted at different levels of field office, head office and the appeal then finalized; instructions from Legal Remembrancer, Haryana were received on 14.03.2019 and appeal ultimately filed on 05.10.2019 leading to delay of 434 days.

6. Learned counsel for appellant vehemently argued that delay in filing these appeals should be condoned as appellant has a good case on merits and that delay in filing of appeal is due to administrative exigencies and not due to any willful negligence on the part of appellant. This is vehemently opposed by learned counsel for respondents, who represents various Government

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agencies who are the assessees in these matters. Dismissal of appeals on the ground of delay is sought.

7. We have heard learned counsel for parties at length and have perused the file.

8. Delay in filing of seven appeals by over 700 days, details of which are mentioned in para 3 and 434 days in VATAP-362-2019 is a matter of record. At this juncture, it is to be noted that sufficient cause needs to be shown for condonation of delay. It is a settled position that there can be no mechanical condonation of delay. Administrative lethargy or negligence by State authorities by itself cannot be treated to be sufficient cause to mechanically condone the delay in filing of appeal. Hon'ble the Supreme Court in a recent judgment titled **Shivamma (Dead) by LRs versus Karnataka Housing Board and others** 2025 SCC Online 1969, after exhaustive discussion on this issue with reference to its earlier decisions has specifically held as under:

“72. As aptly noted in **Hameed Joharan** (supra), lapse of time is a specie for forfeiture of right, which is why where a litigant allows the limitation to expire for any right or remedy, due to its own volition, be it in the form of, inaction, lethargy, negligence or mistake, which could have been avoided, no indulgence should ordinarily be shown by the courts in entertaining or enforcing the assertion of such rights, de hors, the litigant otherwise demonstrating a cause for such delay, which may as well also fit within any of the parameters of the exceptions carved out within Section(s) 4 to 24 of the Limitation Act.

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78. The legislature in its wisdom, has in order to lay emphasis that rights of a party ought not to be defeated or relinquished by the expiry of limitation, conferred the discretion to courts to condone the same, subject to showing sufficient cause.

79. But to read this entitlement to file the appeal or application, on any day of the limitation, as instrument to construe the import of “within such period”, would run counter to the object of limitation, which is to enthrone a sense of responsibility and vigilance upon the litigants and avoid protraction of the lis. It would, in our opinion, invariably give the litigants, a ‘free-pass’ to resort to dilatory tactics

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for the substantial portion of the prescribed period of limitation, with little to no consequence.

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81. On the contrary, recognizing the flip side of the proposition that rules of limitation are not meant to destroy the rights of parties into the exercise of discretion by the courts to admit any assertion of the same, after the prescribed period of limitation, provided there is no inaction or negligence, on the part of the litigant, rather than reading the same into “within such period” or “sufficient cause”, to our minds, appears to be the least disruptive interpretation of Section 5 of the Limitation Act, that would balance the salutary object of any statute of limitation, in toto. It would not only ensure that not even an ounce of dilatory tactics by a litigant is allowed to pollute the streams of justice, but also curb the seriously falling standards of diligence that the litigants today have towards assertion of their rights or availment of remedies, and a growing tendency to leave things for the last moment, at the cost of prejudice to other litigants, and without any modicum of respect for the courts and judicial resources. At the same time, it will also allow courts to save those rights and permit their enforcement or adjudication, by a judicious exercise of their discretion in justified instances of delays, that are not a byproduct or result of the litigant’s own inaction or negligence.”

9. Hon’ble the Supreme Court further held that length of delay may be instructive but not determinative. Length of delay, it was held, is immaterial and what matters is the acceptability of the explanation. In this regard, it was held that courts must adopt a pragmatic approach preserving both integrity of statutory timelines and imperative of doing justice in deserving cases. It was held that:-

“133. The length of the delay functions as a contextual indicator but not a determinative factor. It alerts the court to the degree of rigour required in examining the explanation, yet the ultimate focus remains on whether “sufficient cause” has been shown. The doctrine thereby preserves both the integrity of statutory timelines and the imperative of doing justice in deserving cases.

134. Thus, in exercising discretion under Section 5 of the Limitation Act the courts should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is of a few days. Whereas in the former case the consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case, no such consideration may arise and such a

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case deserves a liberal approach. No hard-and-fast rule can be laid down in this regard. The court has to exercise the discretion on the facts of each case keeping in mind that in construing the expression “sufficient cause”, the principle of advancing substantial justice is of prime importance.”

10. Argument raised by learned counsel for appellant that it may have a strong case on merits, is devoid of any merit and has been specifically negated by Hon’ble the Supreme Court in the case of **Shivamma**, supra. In this regard it was held as under:-

“139. However, while substantial justice must be advanced, the law of limitation is equally binding, and “sufficient cause” must be shown in substance, not in empty form. This ensures that the balance between justice and certainty is not skewed in favour of unmerited litigants.

140. However, at the same time, the courts must be mindful that strong case on merits is no ground for condonation of delay. When an application for condonation of delay is placed before the court, the inquiry is confined to whether “sufficient cause” has been demonstrated for not filing the appeal or proceeding within the prescribed period of limitation. The merits of the underlying case are wholly extraneous to this inquiry. If courts were to look into the merits of the matter at this stage, it would blur the boundaries between preliminary procedural questions and substantive adjudication, thereby conflating two distinct stages of judicial scrutiny. The purpose of Section 5 of the Limitation Act is not to determine whether the claim is legally or factually strong, but only whether the applicant had a reasonable justification for the delay.

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142. Another practical reason why merits must not be considered at the stage of delay condonation is that it risks prejudicing the mind of the court against one party even before the matter is substantively heard. By glancing into merits prematurely, the court may inadvertently form a view that colours the fairness of the subsequent adjudication. The judicial discipline required at this stage demands that only the cause for delay be scrutinized, and nothing more. This ensures that the ultimate adjudication of rights occurs in a neutral and unprejudiced setting.

143. The law of limitation is meant to apply uniformly across cases, regardless of the intrinsic strength or weakness of the claims involved. To import merits into condonation proceedings would effectively dilute this uniformity.”

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11. In respect to any leeway to be given to the State, earlier judgments of Hon'ble the Supreme Court in the cases of **G. Ramegowda, Major & Ors. V. Special Land Acquisition Officer, Bangalore (1988) 2 SCC 142; Special Tehsildar, Land Acquisition v. K.V. Ayisumma, (1996) 10 SCC 634; State of Haryana v. Chandra Mani, (1996) 3 SCC 132; State of Nagaland v. Lipok AO, (2005) 3 SCC 752; Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563; Amalendu Kumar Bera v. State of West Bengal, (2013) 4 SCC 52; State of U.P. v. Amar Nath Yadav (2014) 2 SCC 422** and various other judgments were discussed and it was held that:-

“219. Which is why, as per the ratio of Postmaster General (supra) and a plethora of other subsequent decision, the ordinary approach of the courts, in cases where delay is sought to be condoned by offering the explanation of bureaucratic lethargy or red-tapism, must be one of circumspection and reluctance. The courts ought to be loathe in accepting such explanations as “sufficient cause”. They should apply their minds carefully, be slow in condoning delays on such reasons, and exceptional instances, where the explanation is found to be genuine, reflective of reasonable vigilance and promptitude in conduct, and free from gross negligence, deliberate inaction, lack of bona fides, or casual indifference, should such an explanation be accepted.”

12. Hon'ble the Supreme Court in the case of **Shivamma**, supra, in no uncertain terms held that administrative lethargy and laxity can never stand as sufficient ground for condonation of delay. It was held that:-

“261. Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted with bona fides and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also

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equally suffer the bars of limitation from pursuing litigations due to its own lackadaisical attitude.

262. The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law.”

13. In the instant appeals as has been noted in the foregoing paras, there is indeed no explanation leave alone a plausible or sufficient explanation for condonation of delay. Reference has been made to typical bureaucratic hurdles which indeed do not reflect reasonable vigilance or promptitude in conduct in any manner and that too in taking action against respondents, who are none other but Government agencies. Present is a typical case of lackadaisical and lethargic approach on the part of Department. Reliance by learned counsel for appellant on judgment of Hon’ble the Supreme Court in **Vinod Gandhi v. The District Collector, Madhurai and others [SLP No.4337 of 2025, decided on 22.01.2026]** is misplaced because in said matter, it is specifically noted that omission/commission on the part of officers was noted by the then Collector of the District. In the instant matters, no such stand is forthcoming, to the contrary, delay is sought to be explained on the premise of administrative exigencies and processes. Similarly, in the case of **Inder Singh v. State of Madhya Pradesh, 2025 SCC Online SC 600** relied upon by learned counsel for appellant, Hon’ble the Supreme Court has held that though a liberal approach may be adopted in cases involving State authorities, “it does not grant immunity to the State from

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acting negligently or without due diligence”. It is to be reiterated that there is complete lack of due diligence on the part of the appellant in these matters and that the respondents too are none other but statutory bodies.

14. We do not find any ground, whatsoever, to condone the delay in filing these appeals. Applications seeking condonation of delay in filing appeals are, thus, dismissed. Appeals are, accordingly, dismissed being barred by limitation. The question(s) of law, if any, is/are kept open to be decided in appropriate proceedings.

15. Pending applications, if any, also stand disposed of accordingly.

(LISA GILL)
JUDGE

(RAMESH CHANDER DIMRI)
JUDGE

February 09, 2026

Rts

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No