

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VAT Appeal No. 2 of 2009  
Date of Decision: March 18,2009

M/s Sachdeva and Sons Rice Mills Private Limited, Amritsar

..Appellant

Versus

The State of Punjab

..Respondent

CORAM : HON'BLE MR. JUSTICE M.M.KUMAR

HON'BLE MR. JUSTICE H.S.BHALLA

Present:- Mr. Avneesh Jhingan, Advocate  
for the appellant.

Ms. Sudeepti Sharma, DAG, Punjab  
for the respondent.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

H.S.Bhalla, J.

Feeling aggrieved against order dated 3.7.2008 passed by the Chairman, Value Added Tax, Punjab, Chandigarh (for short "the Tribunal") by virtue of which, delay in filing appeal filed by the State of Punjab was condoned, M/s Sachdeva and Sons Rice Mills Private Limited, Amritsar (hereinafter referred to as "the appellant ") filed an appeal under section 68 of the Punjab Value Added Tax Act, 2005 (hereinafter referred to as "the Act") praying for acceptance of the appeal directing the authorities concerned to decide appeal on merit.

For facility of reference, operative part of order dated 3.7.2008 passed by the Tribunal reads thus:

“ When the huge revenue is involved and appeals had been accepted by the DETC(A) only on the technical ground of limitation then I find it a fit case where delay in filing the appeals should be condoned.

Under these circumstances delay in filing the appeals is condoned. The appeals are accepted. Order dated 1.9.2003 of DETC(A) is set aside. Since the appeals were not decided on merits and were accepted only on the short ground of limitation, the DETC(A) shall hear the appeals on merit afresh and decide the same as expeditiously as possible.”

Learned counsel for the appellant has vehemently argued that no sufficient cause was put forward by the State of Punjab, but even then delay was condoned by the Tribunal without assigning any reason. Learned counsel has further submitted that the Tribunal also did not consider the merits of the case while disposing of an application for condonation of delay.

A perusal of the impugned order, as referred to above, clearly spells out that the point of huge revenue was raking in the mind of the Tribunal and on account of that reason, it was found by the Tribunal that it was a fit case where delay in filing the appeal should be condoned. The order of the Tribunal is liable to be set aside for the reasons to be recorded hereinafter.

To our mind, whether it is the State or the individual, unless explanation is offered for the delay that it is either reasonable or satisfactory to the satisfaction of the court, delay can not be

condoned. The learned counsel for the appellant has rightly submitted that no sufficient cause was shown by the State of Punjab for condoning the delay. The State, as a litigant, could not claim a special status or a right to condonation of delay without showing at least reasonable amount of care and diligence in pursuing this case. Moreover, Limitation Act still exists in the Statute book and its provisions had to be complied with. The record clearly spells out that the State had failed to show that it had sufficient reason for not filing the appeal in time and there was no justification from the record for condoning the delay merely on the ground that huge revenue is involved and moreover, the Tribunal, while disposing of the application for condonation of delay, could not touch the merits of the case. No reasons have been assigned by the Chairman of the Tribunal, which led him to condone the delay in filing the appeal. The existence of sufficient cause can only be found out from the reading of the order, which, admittedly, does not exist in the present case.

For the reasons stated above, appeal filed by the assessee is allowed. Matter is remanded back to the Tribunal for deciding the questions of law raised in the appeal by the respondent-State in accordance with law, within four months from the date a certified copy of this order is received.

The Tribunal is directed to intimate the parties by issuing notices to them of the next date of hearing so fixed by it.

**( H.S.BHALLA )  
JUDGE**

**18.3.2009  
VK**

**( M.M.KUMAR )  
JUDGE**

