

Rejection of appeal due to delay of one day is such a hyper technical and pedantic view

The Hon'ble High Court of Himachal Pradesh in ***Sunil Kumar Vij v. Union of India and Others*** [CWP No. 8478 of 2022 dated December 13, 2022] set aside the order of Assistant Commissioner (Appeals) rejecting the appeal of the assessee for restoration of the Goods and Services Tax ("GST") Registration on the grounds delay of one day. Held that, rejection of appeal merely because of delay of one day is such a hyper technical and pedantic view of the matter to hold that even the delay of one day would be fatal to the maintainability of the appeal.

Facts:

Sunil Kumar Vij ("**the Petitioner**") is a dealer registered under GST and was served with a Show Cause Notice ("**SCN**") dated June 14, 2020 for cancellation of its GST Registration. The Revenue Department ("**the Respondent**") thereafter, suo moto cancelled the Petitioner's GST Registration vide order dated July 28, 2020 on the ground that the Petitioner had not filed up-to-date returns along with payment of tax. Further, rejected the application for revocation of the GST Registration filed by the Petitioner dated October 25, 2021.

Subsequently, the Petitioner filed an appeal for the same before the Commissioner (Appeals) who vide order dated August 29, 2022 ("**the Impugned Order**") which was dismissed only on account of its being barred by one day.

Being aggrieved, this petition has been filed.

Issue:

Whether the order passed for rejection of appeal due to delay of one day is against the principles of natural justice?

Held:

The Hon'ble High Court of Himachal Pradesh in **CWP No. 8478 of 2022** held as under:

- Opined that, the rejection of appeal merely because of delay of one day is such a hyper technical and pedantic view of the matter to hold that even the delay of one day would be fatal to the maintainability of the appeal.
- Noted that, the Respondent was vested with an authority for condoling the delay in the appeal filed by the Petitioner.
- Observed that, the Petitioner would not be able to continue with his business in absence of GST registration and thus would be deprived on his livelihood which amounts to violation of his right to life and liberty enshrined under Article 21 of the Constitution of India.
- Condoned the delay in filing of appeal by the Petitioner.
- Set aside the Impugned Order and remanded the matter back to the Respondent to decide the appeal on its merits.

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