(1976) 10 P&H CK 0016

In the Punjab And Haryana At Chandigarh

Case No : General Sales Tax Reference No. 5 of 1974

Gamsha Pipe Ltd. APPELLANT

Vs

The State of Haryana RESPONDENT

Date of Decision : 13-10-1976

Acts Referred:
Limitation Act, 1963 — Section 29, 5

Citation : (1977) 39 STC 546

Hon'ble Judges : O. Chinnappa Reddy, Acting C.J.;M.R. Sharma, J

Bench : Division Bench

Advocate : B.K. Jhingan and R.L. Sharma, for the Appellant; Naubat Singh, Assistant Advocate-General, for the Respondent

Judgement

O. Chinnappa Reddy, Ag. C.J.—The assessee filed an appeal before the Sales Tax Tribunal, Haryana, which was dismissed as time-barred. An application to condone the delay under Sections 5 and 29 of the Limitation Act was also rejected. At the instance of the assessee, the following question has been referred to us for our decision :

Whether, in the facts and circumstances of this case, Section 5 read with Section 29(2) of the Indian Limitation Act, 1963, is applicable to proceedings before the Sales Tax Tribunal under the Haryana General Sales Tax Act, 1973 ?

2. There cannot be the slightest doubt that this question as framed has to be answered against the assessee in view of the judgment in The Commissioner of Sales Tax, U.P., Lucknow Vs. Parson Tools and Plants, Kanpur, .

3. The learned counsel for the petitioner, however, urges that the appeal to the Tribunal was presented within sixty days from the date of the communication of the order to the assessee, though not within sixty days from the date of the order. He, therefore, urges that there was no need to have the delay condoned. The assessee sought a reference of this question also, but the Tribunal expressly declined to refer this question. We are, therefore, not in a position to say

anything about this aspect of the case. The question referred to us is answered against the assessee. There will be no order as to costs.

