(2013) 07 P&H CK 0061

In the Punjab And Haryana At Chandigarh

Case No : Vat No. 80 of 2013 (O and M)

M/s. Pan India Network Infravest Pvt. Ltd. APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 22-07-2013

Acts Referred:
Punjab Value Added Tax Act, 2005 — Section 64

Citation : (2013) 07 P&H CK 0061

Hon'ble Judges : Rajive Bhalla, J;Bharat Bhushan Parsoon, J

Bench : Division Bench

Advocate : Pankaj Gupta, for the Appellant; Radhika Suri, Addl. AG, Punjab, for the Respondent

Judgement

Rajive Bhalla, J.—The appellant challenges order dated 18.04.2013 passed by the VAT Tribunal, Punjab dismissing his appeal as barred by limitation. Counsel for the appellant submits that though the appeal was barred by limitation by 55 days but as the appellant had shown sufficient cause and no reply was filed by the State, to contest the correctness of averments in the application for condonation of delay, the token opposition by the State, at the time of arguments should not have invited dismissal of the appeal. It is further argued that the appellant has nothing to gain from delaying the filing of the appeal and, therefore, its explanation that documents were mixed up in its Mumbai office leading to delay in filing the appeal should have been accepted.

2. Counsel for the State submits that as the impugned order does not suffer from any error of jurisdiction or of law, the appeal should be dismissed.

3. We have heard counsel for the parties, perused the impugned order and though the learned Tribunal may not be entirely incorrect in its reading of Section 64 of the Punjab Value Added Tax Act, 2005 but as it was not brought to the notice of the Tribunal that the State has not filed a reply controverting averments in the application for condonation of delay and only put up a token opposition, the explanation furnished by the appellant should have been accepted as

sufficient cause for delay. At this stage, it would be appropriate to reiterate the law as laid down by the Hon''ble Supreme Court and by this Court that where delay is not intentional or mala fide or the conduct not so negligent as to be unacceptable or intended to reopen a crystallized position, a Tribunal/Court should generally accept the application for condonation of delay. The endeavour of Courts/Tribunals should be to adjudicate a lis on merits as decisions on technicalities do not advance the cause of justice, even in matters arising under taxation Statutes. The explanation put forth by the appellant does not suffer from any of the above disabilities particularly as there was only a token opposition from the respondents. The appellant had nothing to gain from delaying the filing of the appeal or putting forth a false explanation. The delay, in our considered opinion, should have been condoned. In view of what has been stated hereinabove, we allow the appeal, set aside order 18.04.2013, condone delay in filing the appeal and restore the appeal to the VAT Tribunal, Punjab for deciding the same afresh and in accordance with law. Parties are directed to appear before the VAT Tribunal, Punjab on 12.08.2013.

