**(2020) 11 UK CK 0060**

**In the Uttarakhand High Court**

**Case No :** Commercial Tax Revision No. 15 Of 2014

Project Manager APPELLANT

Vs

Tribunal Commercial Tax Dehradun And Another RESPONDENT

**Date of Decision :** 20-11-2020

**Acts Referred:**

Uttarakhand Value Added Tax Act, 2005 — Section 53

**Citation :** (2020) 11 UK CK 0060

**Hon'ble Judges :** Ravi Malimath, J;Ravindra Maithani, J

**Bench :** Division Bench

**Advocate :** B.R. Garg, Mohit Maulekhi

**Final Decision :** Disposed Of

## Judgement

Ravi Malimath, J

1. The assessee filed an appeal being Defective Appeal No. 02/2014 under Section 53 of the Uttarakhand Value Added Tax Act, 2005 before the

Commercial Tax Tribunal, Uttarakhand, Dehradun Bench. There was a delay of around 2 years 9 months and 16 days in filing the said appeal. An

application seeking condonation of delay was also filed. By the impugned order dated 14.03.2014 the application seeking condonation of delay was

dismissed by the Tribunal. Hence, the present revision.

2. Shri B.R. Garg, learned counsel for the revisionist, submits that the Tribunal committed an error in dismissing the application seeking condonation of

delay. He further submits that the delay should have been considered liberally and that sufficient cause was shown before the Tribunal to condone the

delay. Hence, he pleads that the delay should be condoned and the present revision may be allowed.

 

3. The same is disputed by the learned brief holder for the State. He submits that no sufficient cause has been shown by the revisionist to condone the

delay of 1016 days.

4. On hearing learned counsels, we are of the considered view that appropriate interference is called for. There is a delay of 1016 days in filing the

appeal. The reasons mentioned are that copy of the order impugned in the appeal was received by the applicant on 21.01.2011 and soon thereafter the

same was sent by the corporation to his advocate to pursue the matter. The Assistant Accounts Officer of the applicant, who was looking after this

matter, was transferred during the said period. He failed to mention about this important matter in his tenure. Therefore, the appeal was not filed by

the learned counsel against the impugned order. In the interregnum, the impugned judgment went missing from the learned counsel. Hence, a second

certified copy was obtained on 31.01.2014 and the appeal was filed, which was thereafter registered as being defective. In this process, the delay has

occasioned.

5. The Tribunal declined to condone the delay and was of the view that sufficient cause has not been shown to condone the delay.

6. However, on considering the reasons assigned, we are of the considered view that appropriate interference is called for in the matter. The

revisionist is a State Government undertaking. The reasons assigned for the delay are as stated in the affidavit. The revisionist does not benefit from

any delay in filing the appeal belatedly. Even otherwise, the Honâ??ble Supreme Court in a variety of judgments have held that the delay should not

come in the way of substantial justice. Notwithstanding the same, we are of the considered view that reasons assigned for the delay constitutes

sufficient cause for condoning the same.

7. For all the aforesaid reasons, the present revision is allowed. The order dated 14.03.2014 passed by the Tribunal in Defective Appeal No. 02/2014

is set aside. The application seeking condonation of delay is allowed. The delay of 1016 days in filing the appeal is condoned. The appeal is restored to

the file of the Tribunal. The Tribunal to decide the appeal on merits, and in accordance with law, as expeditiously as possible.

8. The revision is disposed off accordingly.