(2013) 09 GUJ CK 0047

In the Gujarat High Court

Case No : Civil Application No. 488 of 2013 and Stamp Number 2232 of 2013

State of Gujarat APPELLANT

Vs

Karnavati Veneers Pvt. Ltd. RESPONDENT

Date of Decision : 06-09-2013

Acts Referred:

Citation : (2014) 68 VST 375

Hon'ble Judges : Sonia Gokani, J;Shah, J

Bench : Division Bench

Judgement

Shah, J.—The present application u/s 5 of the Limitation Act has been preferred by the applicant-Commissioner of Commercial Tax, to condone the huge delay of 1583 days in preferring the Tax Appeal against the impugned judgment and order dated January 21, 2009 passed by the Gujarat Value Added Tax Tribunal, Ahmedabad, in Second Appeal No. 17 of 2006. At the outset, it is required to be noted that while passing the impugned judgment and order, the Tribunal has relied upon its earlier decision in Second Appeal Nos. 501 to 505 of 2008. It is reported that the decision of the Tribunal in Second Appeal Nos. 501 to 505 of 2008 were challenged before this court. There was a delay of 1360 days in preferring the tax appeal against the decision of the Tribunal in Second Appeal No. 501 of 2008 and Civil Application No. 63 of 20131 was preferred by the State to condone the delay of 1,360 days in preferring the tax appeal. Somewhat on the similar ground stated in the application and by a detailed judgment and order and considering the decision of the honourable Supreme Court in the case of Office of The Chief Post Master General and Others Vs. Living Media India Ltd. and Another, , the Division Bench vide order dated February 15, 20131 has dismissed the said application and refused to condone the delay.

2. Having heard Shri Jaimin Gandhi, learned Additional Government Pleader appearing on behalf of the State and considering the grounds mentioned in the present application in support of the prayer to condone the delay, which are similar to the grounds set out in Civil Application No. 63 of 2013, which has been

dismissed by the Division Bench of this court vide order dated February 15, 2013 (State of Gujarat v. Karnavati Veneers Pvt. Ltd. [2014] 68 VST 367 (Guj)), we do not propose to take a different view. Under the circumstances and for the reasons stated in the order passed by the Division Bench of this court dated February 15, 2013 (State of Gujarat v. Karnavati Veneers Pvt. Ltd. [2014] 68 VST 367 (Guj) in Civil Application No. 63 of 2013 in Stamp No. 80 of 2013), the present application deserves to be dismissed and is accordingly dismissed. However, the question of law, if any, is kept open as the present application as well as the tax appeal, are dismissed on the ground of delay. Under the circumstances, the present application for condonation of delay is dismissed and consequently Tax Appeal (Stamp) No. 2232 of 2013 is also dismissed on the ground of limitation.