

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI  
Sh. Narinder Kumar, Member (Judicial)

M.A. No. 613/Cond./22  
In Review Application No. 08/22  
Date of Order : 12/01/2023.

M/s. S.C. J. Plastics Ltd.,  
3/10, 11, Okhla Inds. Area,  
Pjase – I, Okhla,  
Delhi – 110020.

..... Applicant

v.

Commissioner of Trade & Taxes, Delhi.

..... Respondent

Present for the Appellant- Applicant

: Sh. R. Mahana

Present for the Respondent

: Sh. C.M. Sharma

**ORDER**

**(On Applications u/s 5 of Limitation Act)**

1. This order is to dispose of application filed u/s 5 of Limitation Act seeking condonation of delay in filing of review application. Review has been sought in respect of judgment dated 01/10/2021 passed by this Appellate Tribunal.
2. It may be mentioned here that initially the dealer-applicant filed an application u/s 5 of Limitation Act, along with the appeal presented on 17/11/2022. That application stands amended.
3. In this application, applicant has sought condonation of delay on

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the ground that earlier on 06/11/2022 the applicant filed VAT Appeals No. 09/2021 and 10/2021 before the Hon'ble High Court, but in the course of arguments, on 15/09/2022 said appeals were withdrawn.

4. Applicant has further alleged that the entire month of October 2022 was season of festivals and holidays. As further alleged in the application, the applicant was having belief that review is to be filed within 60 days from the date of order of the Hon'ble High Court and as such delay of about 12-15 days in filing of this review application be condoned. At the same time, in para 2 of the amended application, it has been shown in the form of a table that there is a total delay of 72 days, out of which the period spent before the Hon'ble High Court is to be excluded.
5. Counsel for the applicant submits that delay in filing of the review application has been explained as the applicant in its bona fides resorted to remedy by way of appeals before the Hon'ble High Court, and as such the review application be entertained while excluding the period when the appeals remained pending before the Hon'ble High Court.
6. In the course of arguments, counsel for the applicant has submitted that some period was not utilized by the applicant before filing of appeal before the Hon'ble High Court, and for the delay that has occurred in filing of the review application,

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dealer-applicant is ready to pay cost and that review application be entertained and proceeded with.

7. Counsel for Revenue has rightly submitted that the appeals having been presented before the Hon'ble High Court on 06/11/2021 and withdrawn on 15/09/2022, as per claim of the applicant, only the said period is to be excluded while calculating the period of limitation of 60 days for filing of the review application.

There is no merit in the submission put forth by Counsel for the applicant that the period from 06/11/2021 to 06/10/2022 is to be excluded while calculating the period of limitation of 60 days, the reason being that on 15/09/2022 when Counsel for the appellant made submission before the Hon'ble High Court for withdrawal of the two appeals and the order passed by the Hon'ble High Court is dated 15/09/2022 itself, the period to be excluded u/s 14 of Limitation Act is from 06/11/2021 to 15/09/2022.

8. Applicant having received copy of judgment passed by this Appellate Tribunal on 07/10/2021 and having filed appeals before the Hon'ble High Court on 06/11/2021, the applicant did not utilize a period of 29 days. There remained 31 days period available to the applicant for filing of review application. Said period of 31 days commenced from 16/09/2022. Review application came to be presented on 17/11/2022. Keeping in




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view the principle contained in provisions of section 14 of limitation Act and applying the same to the present matter, the period spent in proceedings before the Hon'ble High Court is to be excluded.

9. In the given situation, I deem it a fit case to entertain the review application by condoning delay in filing the same, subject to deposit of cost of Rs. 2,000/-. It is ordered accordingly.
10. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.  
Date: 12/01/2023.

  
Narinder Kumar  
Member (J)

