

2024:DHC:468-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 09.01.2024

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W.P.(C) 13058/2023 & CM. APPLS. 51580/2023

M/S VIBGYOR SERVICES

..... Petitioner

Versus

UNION OF INDIA & ORS.

....Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. Ashish Chauhan, Advocate.

For the Respondents:

Mr. Pradeep Kumar Jha, Senior Panel Counsel for respondent No.1

Mr. R. Ramachandran, Senior Standing Counsel.

CORAM:-**HON'BLE MR. JUSTICE SANJEEV SACHDEVA****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****SANJEEV SACHDEVA, J. (ORAL)**

1. Petitioner impugns Order-in-Appeal dated 14.07.2023, whereby the appeal filed by the petitioner impugning Order-in-Original dated 13.12.2022 has been rejected solely on the ground of limitation.

2. The Order-in-Appeal notices that the Order-in-Original was passed on 30.12.2022 and the last date for filing the appeal, taking the date as 30.12.2022 as the first date, was 29.03.2023. The appeal was



filed on 22.05.2023 and was held to be delayed by almost two months.

3. Commissioner (Appeals) referring to Section 107 (4) of the Central Goods and Services Tax Act, 2017 held that delay of one month could be condoned for sufficient cause shown and since the appeal was filed with a delay of nearly two months, it was held to be time barred. The Commissioner has noticed the contention of the appellant that the Order-in-Original was communicated only on 07.03.2023, however, has rejected the contention on the ground that no documentary evidence was produced by the petitioner.

4. Learned counsel for respondent, who appears for the Department, very fairly states that he has examined the records of the service of the order-in-original and the record has revealed that though the Order-in-Original was posted on 30.12.2022, the envelope was received back undelivered on 04.01.2023 with the remarks 'no such firm' and thereafter, no steps were taken by the Department to serve the order-in-original. He submits that the record reveals that the petitioner had approached the Department and was delivered a copy of the order only on 07.03.2023.

5. Since the admitted position is that petitioner was not served with the Order-in-Original till 07.03.2023, the limitation for filing the appeal would commence from the date of service i.e. 07.03.2023. Limitation for filing an appeal is 90 days and the Order-in-Appeal



shows that the appeal was filed on 22.05.2023. The appeal was accordingly within the period of limitation computed from 07.03.2023.

6. Consequently, the impugned Order-in-Appeal dated 14.07.2023 is set aside. The appeal is restored to its original number on the records of the Commissioner (Appeals). Commissioner (Appeals) shall accordingly intimate the parties of the next date of hearing fixed by the Commissioner.

7. Petition is disposed of in the above terms.

SANJEEV SACHDEVA, J

JANUARY 09, 2024/NA

RAVINDER DUDEJA, J