Commissioner of Income Tax (Exemption), Chandigarh v. Tibetan Children Village Dal Lake, Dharamshala

OMP(M) No.30 of 2017 with Income Tax Appeal No.115 of 2018

Supplied court judgment; no neutral citation stated | 2018-11-05

Re-filing delay condoned; appeal withdrawn with liberty for an amended fresh appeal within four weeks and limitation protection conditional on that filing period.

260A

Division Bench | Sanjay Karol | Chander Bhusan Barowalia

01 FACTS OF THE CASE

A supplementary affidavit supported condonation of 197 days in re-filing the appeal. The Court noted Revenue's review proceedings in the Punjab and Haryana High Court on jurisdiction. In ITA 115/2018 challenging the ITAT order dated 20 January 2016, it found that no substantial question of law had been raised in the appeal as presented.

Source: PDF pp.1–2

02 DISCUSSION BY THE HON'BLE COURT

Revenue requested withdrawal with liberty to file afresh after suitable amendments, undertaking to do so within four weeks. The respondent had no objection. The Court separately dealt with the existing re-filing delay and the terms for the contemplated fresh appeal.

Source: PDF pp.1–2

03 JUDICIAL DECISION

The delay-condonation application was allowed. The appeal was dismissed as withdrawn with liberty to file afresh on the same and subsequent cause of action within four weeks. An appeal preferred within that period was to be treated as filed within limitation. Pending applications were disposed of.

Source: PDF pp.2–3

04 OUTCOME / IN WHOSE FAVOUR

Revenue obtained procedural permission for a fresh amended appeal on the recorded conditions. The ITAT order was not set aside and the underlying tax dispute was not determined on merits.

Source: PDF pp.2–3

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05 EXPERT COMMENTS

The condoned re-filing delay and fresh-appeal period are distinct — OMP(M)30/2017 concerns 197 days in re-filing the existing appeal. The supplementary affidavit and Revenue's Punjab and Haryana jurisdiction-review history explain the condonation on this record. The later four-week period concerns a proposed fresh amended appeal after withdrawal. Treating the two as one unrestricted extension would obscure the separate procedural steps and the condition attached to the later filing. (Source: PDF pp.1–2).

The absence of a raised question is not a final tax-merits ruling — The Court recorded that no substantial question of law had been raised in the appeal as presented under Section 260A. It then permitted withdrawal and suitable amendments in a fresh filing. That sequence should not be rewritten as a reasoned adjudication that the underlying assessment could never raise a substantial question, or as a High Court decision granting or denying the institution an exemption. No substantive tax section, assessment year or disputed amount is supplied. (Source: PDF p.2).

Limitation protection depends on filing within the stated four weeks — The Court expressly linked the deemed within-limitation treatment to a fresh appeal being preferred within the four-week period. The source does not establish that such an appeal was filed, admitted or allowed. The liberty for the same and subsequent cause of action also does not prescribe the result of the amended grounds. No automatic admission, later condonation beyond that period or merits victory can be inferred from this withdrawal order. (Source: PDF pp.2–3).

Similar companion wording does not erase distinct appeal identities — This complete source disposes of OMP(M)30/2017 and ITA 115/2018 together, so one canonical note retains both docket identities. Its challenged Tribunal order is dated 20 January 2016. The separately supplied ITA 117/2018 with OMP(M)29/2017 concerns one year, three months and twenty-one days and an ITAT order dated 6 February 2015. The different appeal numbers, applications, delay periods and Tribunal orders require separate publications even though the parties, decision date and much of the wording match. (Source: PDF pp.1–3).

Source: PDF pp.1–3

SOURCE & VERIFICATION

Original court judgment / order

Full original read; every original page visually inspected.

STATUTORY SCOPE

Provisions and historical figures are recorded only as addressed in this judgment. No current statutory position or subsequent-treatment clearance is represented.

LATER TREATMENT

Appeal, review, recall and stay status has not been independently confirmed.

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