

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

VATAP-40-2014(O&M)

Date of decision: 03.11.2014

M/s Plaza Cables Industries Ltd.

..... Appellant

VERSUS

State of Haryana and others

..... Respondents

CORAM: **HON'BLE MR. JUSTICE RAJIVE BHALLA**
HON'BLE MR. JUSTICE AMIT RAWAL

Present: **Mr.Saurabh Gulia, Advocate, for**
Mr.Rajiv Agnihotri, Advocate, for the appellant.

Ms.Mamta Singhal Talwar, AAG, Haryana.

RAJIVE BHALLA, J. (ORAL)

CM-2536-CII-2014

Prayer in this application is to condone delay of 443 days in filing the appeal.

Counsel for the applicant submits that delay in filing the appeal is on account of an inadvertent error committed by Mr.Shankar Datt, Clerk, in the office of Mr.Rajiv Agnihotri, Advocate. The clerk mistook the appeal filed for assessment year 2003-04 namely VATAP-141-2012 as the appeal filed in the present case and, therefore, did not file the present appeal. Mr.Shankar Datt, Clerk, has filed his affidavit admitting to this error. It is further submitted that controversy on merits is covered

in favour of the appellant by judgment dated 25.07.2014, passed in VATAP-48-2012 “M/s Sonex Auto Industries P. Limited, Bahadurgarh (Haryana) Vs. State of Haryana and others”.

Counsel for the State of Haryana submits that explanation for delay of 443 days cannot be accepted much less as a ground to condone delay. The appeal has been filed after the decision in VATAP-48-2012. The applicant may, therefore, not be allowed to take advantage of own wrong and consequently, the application may be dismissed.

We have heard counsel for the parties, perused the pleadings as well as the affidavit filed in support of the application and are satisfied that delay in filing the appeal is not malafide but is on account of an error committed by Mr.Shankar Datt, Clerk, who has filed an affidavit admitting his error. This apart, controversy, on merits, has already been decided in favour of the assessee by judgment dated 25.07.2014, passed in VATAP-48-2012 “M/s Sonex Auto Industries P. Limited, Bahadurgarh (Haryana) Vs. State of Haryana and others.”

As a consequence, the application is allowed and delay of 443 days in filing the appeal is condoned.

VATAP-40-2014

We have heard counsel for the parties and as it is not denied by counsel for the State of Haryana that controversy in the

present appeal is covered in favour of the appellant by judgment dated 25.07.2014, passed in VATAP-48-2012 “M/s Sonex Auto Industries P. Limited, Bahadurgarh (Haryana) Vs. State of Haryana and others”, allow the appeal, set aside the impugned orders and remit the matter to the assessing officer to calculate the amount of tax payable by the appellant, in accordance with law.

[RAJIVE BHALLA]
JUDGE

03.11.2014
Shamsher S.Sabharwal

[AMIT RAWAL]
JUDGE