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Appeal can't be rejected for not being filed electronically, HC directed dept. to restore appeal

(2024) 14 Centax 12 (P&H.)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

G.S. SANDHAWALIA AND MS. LAPITA BANERJI, JJ.

OPTUM GLOBAL SOLUTIONS (INDIA) PVT. LTD.

Versus

STATE OF HARYANA

C.W.P. No. 26273 of 2023, decided on 22-11-2023

GST : Where appeal was filed manually and, hence, rejected for not being filed electronically, relying on rule 108 of Haryana GST Rules, 2017, appeal was to be restored.

Appellate authority - Appeals to - Procedure of - Online v. Offline filing - Period April, 2018 to June, 2018 - Assessee had filed appeal offline/manually against order denying his refund claim - Appeal was rejected for not being filed electronically - Assessee relied on rule 108 of Haryana GST Rules, 2017 which allows for appeals to be filed either electronically or otherwise - HELD : Rule 108, which allowed electronic or 'otherwise' filing, encompasses manual filing as well - Relying on judgment in *Ali Cotton Mill v. Appellate Joint Commissioner (ST) [2021] 124 taxmann.com 611 (Andhra Pradesh)* and instant Court quashed order rejecting appeal - Appeal was to be restored - Section 107 of Central Goods and Services Tax Act, 2017/ Haryana Goods and Services Tax Act, 2017 - Rule 108 of Central Goods and Services Tax Rules, 2017/Haryana Goods and Service Tax Rules, 2017. [Paras 3 and 6]

In favour of assessee.

CASE REVIEW

Go Daddy India Domains and Hosting Services (P.) Ltd. v. State of Haryana [C W P No. 9051 of 2023] (para 2) and Ali Cotton Mill v. Appellate Joint Commissioner (ST) [2021] 124 taxmann.com 611 (Andhra Pradesh)(para 2) followed .

REPRESENTED BY : Kamal Sawhney, Deepak Thakur and Rishab Singla, Advs. for the Petitioner.

[Order per : G.S. Sandhawalia, J.] - Challenge in the present writ petition filed under Article 226 of the Constitution of India is to the order dated 1-3-2023 (Annexure P-1) whereby the Joint Commissioner of State Tax (Appeals)-cum-Appellate Authority, Faridabad has rejected the appeal being not maintainable on account of the fact that it had been presented in a manner by filing it offline (manual) on 31-8-2020 against the order dated 4-6-2020. The said appeal was filed against the rejection of the refund for Rs. 32,69,309/- for the period from April, 2018 to June, 2018. Reliance has been placed upon Rule 108 of the Haryana Goods & Service Tax Rules, 2017 (in short 'the Rules') which provide that the appeal can be filed either electronically or otherwise, as may be notified by the Commissioner.

2. It has been brought to our notice that the said Rule was amended on 4-8-2023 and the appeals have been filed earlier. It has also been further brought to our notice that a co-ordinate Bench in CWP-9051-2023, *Go Daddy India Domains and Hosting Services Pvt Ltd v. State of Haryana*, decided on 29-4-2023 (Annexure P-11) came to the conclusion that it is a highly technical ground for dismissing the appeal and *set aside* the said order and issued directions to hear the appeal on merits after giving opportunity of hearing to both the parties. Reliance was placed upon the judgment of Andhra Pradesh High Court in Writ Petition No. 3308 of 2021, *Ali Cotton Mill v. Appellate Joint Commissioner (ST)*, 2022 (56) G.S. T.L., 270 (A.P.) (Annexure P-12).

3. A perusal of the said judgment would also go on to show that the wording of the Rule had been taken into consideration since it is provided "electronically or otherwise" and, therefore, the manual filing as such has also been accepted.

4. Notice of motion.

5. Ms. Mamta Singla Talwar, DAG, Haryana accepts notice on behalf of the respondents.

6. Keeping in view the above, we see no tangible reason to pass a different order. Accordingly, the order dated 1-3-2023 (Annexure P-1) is quashed. The appeal is restored on the Board of the Appellate Authority, which shall proceed to decide the appeal on merits.

7. Writ petition stands disposed of accordingly.
