

**BEFORE THE COMMISSIONER OF STATE TAXES & EXCISE-
CUM-APPELLATE AUTHORITY, HIMACHAL PRADESH,
(Block No. 30, SDA complex, SHIMLA- 171009)**

OMA No. : 01/2023
In Appeal No. 02/2023
Date of Institution : 12-05-2023
Date of order : 20-07-2023

In the matter of:-

M/s Oakwood Filling Station,
Surajpur, Paonta SahibApplicant

Verses

Jt. Commissioner (ST&E),
South Enforcement Zone, Parwanoo, Solan.....Respondent

Parties represented by:--

1. Shri Rakesh Sharma, Learned Advocate for the Applicant/Appellant.
2. Smt. Monika Attreya, ACST&E (Legal Cell) for the Respondent.

ORDER

1. This order shall dispose of Miscellaneous Application filed under Section 45 (4) of the HP VAT Act, 2005 for extension of time in filing the present Appeal. It was averred that the applicant/appellant, during the proceedings in this case, suffered serious ailment and remained bedridden for a substantial period. It was further averred that the doctor had advised complete bed rest and avoid travelling in any case. It was further averred that the applicant/appellant was not in a position to contact a lawyer for the purpose of filing the appeal and it was recently when the applicant/appellant recovered and immediately took steps to file the



present appeal. Thus, the applicant/appellant requested for the condonation of delay in filing the present appeal.

2. Per contra, Smt. Monika Attreya, ACST&E (Legal Cell) appearing on behalf of the Respondent argued that the present application deserves dismissal at the very threshold as averments made in the present application are vague and general in as much as no specific date has been mentioned as to when the applicant/appellant came to know about the impugned order. Neither the date regarding the ailment of the appellant nor the date as to when he allegedly recovered from the ailment is mentioned. It was further argued on behalf of the respondent that the applicant has not mentioned the quantum of delay which is sought to be condoned by filing the present application. It was further argued on behalf of the respondent that the present application deserves dismissal as the contents mentioned in the present application are not supported by any affidavit whatsoever in order to show at least prima facie about the genuineness and truthfulness of the averments made in the application.

3. I have heard both the parties and gone through the record of the case carefully.

4. The perusal of the contents of the application itself shows that the averments made in the application are vague and general. The applicant/appellant has neither mentioned the date as to when he suffered the ailment nor the date when the applicant/appellant recovered from the said ailment. The applicant/appellant has not even mentioned the period of delay which is sought to be condoned. The applicant has filed the present application in a casual manner



especially when neither the averments made in the present application are supported by any affidavit nor any documentary proof is found mentioned in the present application or annexed therewith, whatsoever.

5. Be that as it may, it is borne out from the record that the impugned order has been passed on 11-08-2022 and the said order has been communicated to the applicant/appellant on that day (i.e. 11-08-2022), itself. In fact, the applicant/appellant has assailed the aforesaid order dated 11-08-2022, whereby an additional demand of Rs. 3, 82, 86,996/- was created against the applicant/appellant.

6. Thus, keeping in view the aforesaid facts and circumstances especially the fact that there is a delay of about seven months which has not been explained satisfactorily and also the fact that huge amount is involved and also for the fact that the present application is neither supported by any affidavit nor any documentary proof is annexed in support of the averments made in the said application, I am of the considered opinion that there is no merit in the application and the same is liable to be dismissed and is accordingly dismissed. Let all the parties be informed accordingly. File may be consigned to the record room after completion.

Announced on 20th of July, 2023




Commissioner of State Taxes & Excise
-cum-Appellate Authority (HP),
Shimla-09

Endst. No.:ST&E/CoST&E/Appeals/Reader/2023/ 20137-41 Dated: 20-07-2023

Copy for information and necessary action to:

1. Ms Oakwood Filling Station, Surajpur, Paonta Sahib, Sirmour.
2. Jt. Commissioner State Taxes & Excise, FS/SEZ, Parwanoo.
3. Dy. Commissioner State Taxes and Excise, District Sirmour.
4. (Legal Cell), HQ.
5. IT Cell

M/Reader 2-

Reader to the
Commissioner of State Taxes & Excise (H. P.)

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