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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Misc. Application No. 102/Jodhpur/2011
in
Original Application No. 193/Jodhpur/2011.

Date of decision: **07.05.2012**

HON'BLE MR. B.K.SINHA, ADMINISTRATIVE MEMBER.

Yusuf Ahmed Gauri S/o Shri Ahsanulaq Gauri
Aged about 34 years, R/o Gauri Colony, Ward No.21
(Old Ward No.14), Churu (Raj), last employed on
Daily Wage Computer Work in the Office of
Income Tax Officer, Ward No.1, Churu (Raj.).

: Applicant

[Mr. A.K.Kaushik, Advocate]

Versus

1. Union of India through Secretary, Central Board of Direct Taxes, Ministry of Finance, Government of India, North Block, New Delhi.
2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statue Circle, B.D.Road, Jaipur.
3. Income Tax Officer, Ward No. 1, Shekhawat Colony, Churu (Raj).

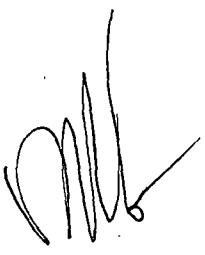
: Respondents

[Mr.B.Khan Adv. proxy for Mr. Varun Gupta, Advocate]

ORDER (ORAL)

Heard the learned Counsel for the applicant.

2. The learned counsel representing the applicant has filed a Misc. Application No. 102/2011 for condoning the delay of eight months. It is pleaded in the M.A. that the cause has arisen due to termination of the applicant and under a mistaken impression that the remedy lay before the Labour Court, the applicant has approached the Labour Commissioner for relief. Reference is made in this regard to the decision of the Apex Court in the case of *D.C.S. Negi vs Union of India SLP 7956 of 2011 decided on 07-03-2011*, wherein, the Apex Court has held as under:-

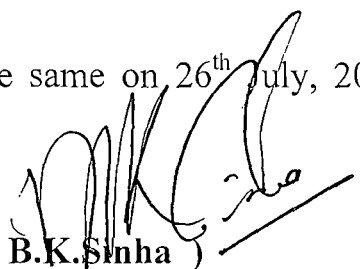


"A reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of Section 21(1) or Section 21(2) or an order is passed in terms of sub section (3) for entertaining the application after the prescribed period. Since Section 21(1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under Section 21(3)."

3. I find that the delay in filing the O.A. before this Tribunal is acceptable as the reason for delay has been sufficiently explained. It has to be considered that the applicant being a low paid employee was not himself aware of the rules and procedures and allowed himself to be guided by his advocate. A key question is that why should the applicant suffer for the mistake of his counsel.

4. In view of above, the Misc. Application is allowed and the delay is condoned.

5. O.A. is admitted and put up the same on 26th July, 2012 for directions.


(B.K. Sinha)
Administrative Member