

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2016

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.2242 of 2016

S.Balasubramanian

... Petitioner

Vs.

1. The Principal Secretary,
Commercial Tax and Registration (G) Department,
Secretariat, Chennai.

2. The Deputy Registrar of Chits & The Arbitrator,
Office of the District Registrar (Collectorate)
Coimbatore.

3. M/s. Margadarasi Chits Private Ltd.,
No. 36/17, Ashirwad, III Floor, D.B.Road,
R.S. Puram, Coimbatore.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus calling for the records pertaining to the order in G.O. (D) No. 509 dated 18.12.2015 issued by the 1st respondent to quash the same and for a direction to the 1st respondent to remit the A.R.C. No. 22 of 2013 to the 2nd respondent for fresh disposal.

For Petitioner : Mr.R.Selvaraj

For Respondent : Mr.V.Subbiah,
Special Government Pleader

O R D E R

The petitioner filed an appeal before the respondent No. 1, against the order passed by the respondent No. 2 dated 30.07.2014, under Section 70 of the Chit Funds Act, 1952. As per the above said Section, the period prescribed for filing an appeal is within two months. It appears that the petitioner has filed the appeal admittedly, with a delay of 287 days. Therefore, the said appeal was dismissed as time barred without going into the merits of the case. Challenging the order of rejection passed by the respondent No. 1 dated 18.12.2015, the present writ petition has been filed by the petitioner before this Court.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. Learned counsel appearing for the petitioner has rightly contended that the above said provision is not mandatory, and it is a part of the procedural law. When a provision is directory, discretion is available to the authorities concerned to consider the application for condonation of delay. The petitioner has already filed application for condonation of delay but the same has not been considered properly. What the petitioner wants is adjudication of the appeal on its merits.

4. Considering the above facts and circumstances, the order passed by the respondent No. 1 dated 18.12.2015, is hereby set aside and the respondent No. 1 is directed to consider the appeal afresh and decide the same on merits and in accordance with law, within a period of three months from the date of receipt of copy of this order.

5. With the above direction, the present writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rms

To

1. The Principal Secretary,
Commercial Tax and Registration (G) Department,
Secretariat, Chennai. सत्यमेव जयते

2. The Deputy Registrar of Chits & The Arbitrator,
Office of the District Registrar (Collectorate)
Coimbatore.

3. M/s. Margadarasi Chits Private Ltd.,
No. 36/17, Ashirwad, III Floor, D.B.Road,
R.S. Puram, Coimbatore.

1 cc to Mr.V. Vijayakumar, Advocate, sr. 4446
1 cc to Government Pleader,. Sr. 5009

W.P.No. 2242 of 2016

SR (CO)
kk 3/2