IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(NPD)No.3540 of 2012
M.P.No.1 of 2012

The Commissioner,
Coimbatore City Municipal Corporation,
Big Bazaar Street,
Coimbatore. .. Petitioner

Vs.

1.K.Thajraj
2.K.Aswin Kumar Jain
3.K.Kumatchand Jain .. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 31.03.2011 made in I.A.No.813 of 2002 in C.M.A.C.F.R.No.14177 of 2002 on the file of the Principal District Judge, Coimbatore.

For Petitioner : Mr.R.Sivakumar
For R1 & R2 : No appearance
For R3 : Not ready in notice

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 31.03.2011 made in I.A.No.813 of 2002 in C.M.A.C.F.R.No.14177 of 2002 on the file of the Principal District Judge, Coimbatore.

2. The petitioner / Coimbatore Corporation filed C.M.A.C.F.R.No.14177 of 2002 along with I.A.No.813 of 2002 to condone the delay of 649 days in filing the appeal against the order of Tax Appellate Tribunal in TAT No.343/2000/A8 dated 26.09.2000.

3. According to the petitioner Corporation, it has revised the property tax to the entire area from 01.04.1993 onwards. The respondents challenged the said order. The Tax Appellate Tribunal, in the appeal filed by the respondents in TAT No.343/2000/A8, vide order dated 26.09.2000, reduced the property tax, without giving any opportunity to the petitioner Corporation. The copy of the order must be furnished within 10 days from the date of the order of the Tribunal but the petitioner received the copy of the order only on 22.11.2000. The officials who received the copy of the order forwarded the same to the concerned Zone for further action. Due to complying with the

procedure and getting orders from the higher authorities, there was delay in filing the appeal. For the above reasons, the petitioner Corporation prayed for condoning the delay of 649 days in filing the appeal.

4. The respondent filed counter and submitted that the petitioner has not given valid reason for condoning the delay. The reasons given by the petitioner Corporation for condoning the delay was considered in similar matters filed by the various Government Organisations and rejected by the Court. The affidavit filed by the petitioner is not as per Rule and the person who signed the affidavit is not the competent person to sign the same. The learned Judge, considering the averments in the affidavit, counter affidavit and judgments relied on by the learned counsel for the respondents, dismissed the application on 31.03.2011.

5. Against the said order of dismissal dated 31.03.2011, made in I.A.No.813 of 2002 in C.M.A.C.F.R.No.14177 of 2002, the present civil revision petition is filed by the petitioner.

6. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though notice was served on the respondents 1 and 2 and their names are printed in the cause list, there is no representation either in person or through counsel.

7. The contention of the petitioner is that property tax was revised by the petitioner Corporation for the entire area from 01.04.1993. Number of persons challenged the revision of tax. In the present case, the Tax Appellate Tribunal (TAT), without giving any opportunity to the petitioner, passed orders. The copy of the order was also not served on the petitioner. On the other hand, the respondent opposed the said application only on technical grounds. The learned Judge, having accepted the technical objections raised by the respondent, failed to see that, in the interest of justice and equity, the petitioner must be given an opportunity to put forth his case on merits. The application for condoning the delay must be considered liberally.

8. It is well settled law that application for condoning the delay must be considered liberally and the length of delay cannot be a criteria. The Court must see whether the parties have given acceptable and valid reasons and the intention of the parties are *bonafide* and not *mala-fide*. The parties should not be shut down at the threshold itself and must be given opportunity to put forth their case on merits. In the present case, the issue before the Appellate Authority is whether the revision of property tax by the petition is proper and whether the Appellate Tribunal is right in reducing the property tax revised by the petitioner. Courts can take judicial note of the fact that the property tax is the main source of income for any local body to implement the welfare schemes for the general public.

9. It is not in dispute that the petitioner has revised property tax from 01.04.1993 for the entire area of the petitioner Corporation. In view of the above said undisputed fact, the reason given by the petitioner is acceptable and valid. For the above reason, the order dated 31.03.2011 made in I.A.No.813 of

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gsa

2002 in C.M.A.C.F.R.No.14177 of 2002 is liable to be set aside. And it is accordingly set aside.

10. In the result, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed. The learned Judge is directed to number the CMA CFR, if otherwise in order and hear and dispose of the appeal, as expeditiously as possible, not later than three months from the date of numbering the same.

31.08.2017

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To

The Principal District Judge,
Coimbatore.

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