

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.04.2019

Coram:

The Hon'ble Mr.Justice T.S.Sivagnanam
&
The Hon'ble Mrs.Justice V.B.Bhavani Subbaroyan

Writ Petition Nos. 8307 of 2004

Tvl.Bagrecha Constructions Limited,
621-A, Oppanakara Street,
Coimbatore - 1.

...Petitioner

Vs.

1. The Commercial Tax Officer,
Oppankara Street Circle,
Coimbatore.
2. The Additional Appellate Assistant
Commissioner (CT), Coimbatore.
3. The Tamil Nadu Sales Tax Appellate
Tribunal (AB) Coimbatore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in A.P.No.1145 of 2001 dated 20.05.2002 and quash the same as illegal, unlawful and unjustified and direct the Tamil Nadu Taxation Special Tribunal, Chennai to take up the petition for passing order under Section 38A of the TNGST Act.

For Petitioner : Mr.A.Ravichandran

For Respondents : Mrs.G.Dhanamadhri
Government Advocate

ORDER

[Order of this Court was made by T.S.SIVAGNANAM.,J]

We have heard Mr.A.Ravichandran, the learned counsel for the petitioner and Mrs.Dhanamadhri, learned Government Advocate appearing for the respondents.

2. This writ petition has been filed challenging the order passed by the Tamil Nadu Sales Tax Appellate Tribunal,

Additional Bench, Coimbatore, dated 05.01.2004 dismissing the petition filed to condone the delay of 181 days in filing the appeal. No doubt, it is true that the Tribunal has no power to condone such enormous delay. Further, considering the fact that the assessment is of the years 1998-99 and writ petition is of the year 2004, it will be too harsh for this Court to dismiss the writ petition on a technical ground.

3. Therefore, considering the peculiar facts and circumstances of the case, the writ petition is allowed and the order passed by the Tamil Nadu Sales Tax Appellate Tribunal is set aside and the delay of 181 days in filing the petition is condoned and the Tribunal is directed to entertain the petition and hear and dispose of the matter on merits and in accordance with law.

4. In the result, the writ petition is allowed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

mrm/smv

To

1. The Commercial Tax Officer,
Oppankara Street Circle,
Coimbatore.
2. The Additional Appellate Assistant
Commissioner (CT), Coimbatore.
3. The Tamil Nadu Sales Tax Appellate
Tribunal (AB) Coimbatore.

+1cc to Mr.A.Ravichandran, Advocate SR.No.33940

+1cc to Special Government Pleader (T) SR.No.34214

Writ Petition Nos. 8307 of 2004

EV(CO)
GMY(30/05/2019)