

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.30289 of 2011

P.K.Senthilkumar

... Petitioner

Versus

1.The Secretary to the Government of Tamilnadu,
Department of Commercial Taxes
& Registration (G) Department,
Chennai - 600 009.

2.The Learned Arbitrator,
Central Chit Fund Court,
Chennai.

3.Sri Gokulam Chit Finance & Company (P) Ltd.,
No.49, Arcot Road,
Kodambakkam,
Chennai - 600 024.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records in relates to the order passed by the first respondent vide letter No.7302/G/2011-1, dated 24.06.2011 confirming the award passed by the second respondent in A.R.C.No.1392 of 2009 by the Arbitrator Sri K.K.Manjula dated 24.03.2011 on the file of the Central Chit Arbitration Tribunal under Chit Fund Act, 1982, Chennai 1 directing the petitioner to pay principal amount of Rs.1,06,324/- with interest amount of Rs.57,415/-. Totally Rs.1,63,739/- and pay 18% till payment of award amount and with a cost of Rs.3,480/- and quash the same.

For petitioner : Mr.B.Thirumalai

For respondents : Mr.P.P.Purushothaman, (for R1 & R2)
Government Advocate.

: Mr.G.Ramachandran (for R3)

ORDER

This Writ Petition has been filed seeking to call for the records in relates to the order passed by the first respondent vide letter No.7302/G/2011-1, dated 24.06.2011 confirming the award passed by the second respondent in A.R.C.No.1392 of 2009

by the Arbitrator Sri K.K.Manjula dated 24.03.2011 on the file of the Central Chit Arbitration Tribunal under Chit Fund Act, 1982, Chennai 1 directing the petitioner to pay principal amount of Rs.1,06,324/- with interest amount of Rs.57,415/-. Totally Rs.1,63,739/- and pay 18% till payment of award amount and with a cost of Rs.3,480/- and quash the same.

2.It is the case of the petitioner that aggrieved by the award of the second respondent passed under Section 69 of the Chit Fund Act, 1982, the petitioner preferred an appeal before the first respondent under Section 70 of the Chit Fund Act, 1982. Since there was a delay of 4 days in preferring this said appeal, the first respondent dismissed the condone-delay-application on the ground that the first respondent does not have power to condone the delay. The said appeal had been filed beyond the period of 60 days from the date of order of the second respondent. Section 70 of the Chit Fund Act, 1982, reads as follows:-

"70. Appeal against decision of Registrar or nominee. Any party aggrieved by any order passed by the Registrar or the nominee or the award of the Registrar or the nominee under section 69, may, within two months from the date of the order or award, appeal to the State Government."

3.As seen from Section 70, the wordings of the said section do not preclude the first respondent (appellate authority) to entertain the appeal beyond the period of 60 days. The provision only says the appeal will have to be filed within a period of 60 days.

4.The Chit Fund Act, 1982, also does not bar the applicability of the Section 5 of the limitation Act, 1963 to any appeal filed under Section 70 of the Chit Fund Act, 1982.

5.The delay is only 4 days and in the affidavit filed in support of the application, the petitioner has stated that due to fault of the Advocate, there was a delay in preferring the appeal, having given sufficient reasons, the first respondent ought to have consider the delay.

6.The first respondent ought to have considered all these factors before dismissing the application filed by the petitioner for condoning the delay in preferring an appeal before the first respondent.

7.For the foregoing reasons, this Court is of the considered view that the impugned order dated 24.06.2011 passed by the first respondent has to be set aside and the petitioner must be permitted to prefer an appeal as against the award dated 24.03.2011 passed by the Arbitrator Sri K.K.Manjula in A.R.C.No.1392 of 2009. The petitioner is permitted to file an appeal under Section 70 of the Chit Fund Act, 1982 before the first respondent, within a period of 15 days from the date of receipt of a copy of this order.

9.With the above direction, the writ petition is disposed of. After filing the appeal by the petitioner, the first respondent is directed to consider the appeal and pass appropriate orders in accordance with law.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Klt

To

1.The Secretary to the Government of Tamilnadu,
Department of Commercial Taxes
& Registration (G) Department,
Chennai - 600 009.

2.The Learned Arbitrator,
Central Chit Fund Court,
Chennai.

+1cc to Mr.S.Nagarajan, Advocate, S.R.No. 103533
+1cc to Mr.G.Ramachandran, Advocate, S.R.No. 103474
+1cc to the Government Pleader, S.R.No. 104048

W.P. No.30289 of 2011

NRL(CO)
GN(30/01/2020)

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