IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE **R.PONGIAPPAN**

C.R.P.NPD.Nos.488, 489 & 490 of 2013
and M.P.Nos.1, 1 & 1 of 2013

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

Vs.

K.R.S.Mani ...Respondent in CRP(NPD).488/2013

1. T.Ravichandran
2. T.Prakash ...Respondents in CRP (NPD).489 & 490/2013

COMMON PRAYER : Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order dated 31.03.2011 made in I.A.Nos.46 of 2003 in TAX.CMA.CFR.No.724 of 2003, 166 of 2003 in TAX.CMA.CFR.No.2501 of 2003, and 167 of 2003 in TAX.CMA.CFR.No.2504 of 2003 on the file of the Principal District Court, Coimbatore.

For Petitioner in all CRPs : Mr.R.Sivakumar

For Respondent in CRP NPD.488 of 2013: Mr.B.Nedunchezhiyan

For Respondents in in CRP NPD 489 and 490 of 2013 : No appearance

COMMON ORDER

These Civil Revision Petitions have been filed against the order dated 31.03.2011 made in I.A.Nos.46 of 2003 in TAX.CMA.CFR.No.724 of 2003, 166 of 2003 in TAX.CMA.CFR.No.2501 of 2003, and 167 of 2003 in TAX.CMA.CFR.No.2504 of 2003 on the file of the Principal District Court, Coimbatore.

2. The petitioner/Coimbatore Corporation filed TAX.CMA.CFR Nos.724 of 2003, 2501 of 2003 and TAX.CMA.CFR.No.2504 of 2003 along with I.A.Nos.46 of 2003, 166 of 2003 and 167 of 2003 respectively to condone the delay of 113 days, 164 days and 164 days, respectively, in filing the appeal against the order of the Tax Appellate Tribunal in TAT Nos. 145/2001/A27, 113 of 2000 and 109 of 2000 dated 23.07.2001, 11.10.2000 and 11.10.2000 respectively.

3. According to the petitioner Corporation, it has revised the property tax to the entire area from 01.04.1993 onwards. The respondents in all the revision petitions challenged the said order. The Tax Appellate Tribunal, in the appeal filed by the respondents in TAT Nos. 145/2001/A27, 113 of 2000 and 109 of 2000, vide orders dated 23.07.2001, 11.10.2000 and 11.10.2000, 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 due to the State assembly

election held during April 2006, the copy of the orders received by the petitioner belatedly. 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 113 days, 164 days and 164 days, respectively in filing the appeals.

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 respondent, dismissed all the applications by common judgment dated 31.03.2011.

5. Against the order of dismissal dated 31.03.2011 passed in I.A.Nos.46 of 2003 in TAX.CMA.CFR.No.724 of 2003, 166 of 2003 in TAX.CMA.CFR.No.2501 of 2003, and 167 of 2003 in TAX.CMA.CFR.No.2504 of 2003, respectively, the present Civil Revision Petitions have been filed.

6. Heard the learned counsel for the petitioner as well as

respondent and perused the materials available on record.

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 elaborately.

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 cases, the issue before the Appellate Authority is whether the revision of property tax by the petitioner is proper and whether the Appellate Tribunal is right in reducing the property tax revised by the petitioner. The 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. More than that, this Court while disposing the Civil Revision Petitions, which have been arising out of the similar matter, condoned the delay in filing the appeal. For the above reasons, the order dated 31.03.2011 made in I.A.Nos.46 of 2003 in TAX.CMA.CFR.No.724 of 2003, 166 of 2003 in TAX.CMA.CFR.No.2501 of 2003, and 167 of 2003 in TAX.CMA.CFR.No.2504 of 2003 is liable to be set aside and it is accordingly set aside.

10. In the result, all Civil Revision Petitions are allowed. The learned Judge is directed to number the TAX.CMA.CFRs, 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.

15.10.2019

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order

rts

R.PONGIAPPAN, J.

rts

To

The Principal District Court,
Coimbatore.

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489 & 490 of 2013
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