

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.03.2019

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.8448 of 2016

M.Kumar

.. Petitioner

Vs.

1. The State represented by the
Secretary Commercial Taxes
and Registration Department,
Fort St. George, Chennai - 600 009.

2. The Margadarsi Chits (P) Ltd.,
Branch - Anna Salai, A-Wing, Flat No.1 & 2,
2nd Floor, Parson Manor, 602, Anna Salai,
Chennai - 600 006.

.. Respondents

PRAYER : Writ Petitions filed Under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari
calling for the records relating to the G.O.(D) No.506,
Commercial Taxes and Registration (G) Department dated
18.12.2015 from the file of the first respondent and quash the
same.

For Petitioner : Mr.G.Appavu
For R1 : Mr.T.M.Pappiah
Special Government Pleader
For R2 : Mr.D.Shivakumaran

सत्यमेव जयते
O R D E R

The writ petition has been filed challenging the order
passed in G.O.(D) No.506 Commercial Taxes and Registration (G)
Department dated 18.12.2015, wherein the order in appeal under
Section 70 of the Chit Funds Act, 1982 filed by the petitioner
against the order of Arbitrator, Central Chennai Chit Funds
Cases in A.R.C.No.682/2012 dated 17.06.2013 was rejected as time
barred.

2. Admittedly, when the petitioner set exparte in the
A.R.C., he had applied for the certified copy of the award on
19.02.2015, which was furnished on 26.03.2015. Even thereafter,
he had not filed the appeal within time and the appeal was filed

only on 24.07.2015. In the delay petition, he has stated that after getting the certified copy of the order, he had been to his native to perform the pooja in his village temple and could not file the appeal immediately. The delay in filing the appeal against the order in A.R.C.No.682/2012 dated 17.06.2013 is more than 25 months.

3. The Principal Secretary to Government, who had passed the order in the appeal had categorically found that despite receiving notice from the Arbitrator, the petitioner herein had not entered appearance either in person or through counsel before the Arbitrator, hence, he was set exparte and an award was passed for a sum of Rs.2,13,102/- with 24% interest.

4. Though it is stated by the learned counsel for the petitioner that he was not the borrower and someone had forged his signature, etc., the same has to be proved in the manner known to law.

5. The only question that has to be decided is, whether the delay in filing the appeal can be condoned or not.

6. Considering the facts of the case, as the petitioner remained exparte even before the Arbitrator, in the interest of justice, he should be given an opportunity to put forth his defence before the Arbitrator. Accordingly, the order impugned is set aside by condoning the delay, however, on condition that the petitioner deposits a sum of Rs.2,13,102/- to the credit of the E.P.No.4188 of 2014 pending on the file of X Assistant City Civil Court, Chennai as agreed by the counsel for the petitioner, within a period of six weeks from the date of receipt of a copy of this order. On compliance of the deposit, the appellate authority is directed to take up the appeal, hear the same and pass appropriate orders on merits, after issuing notice to the petitioner, second respondent herein and the persons interested in this regard and also affording them an opportunity of hearing, within a period of four months thereafter.

7. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rsi

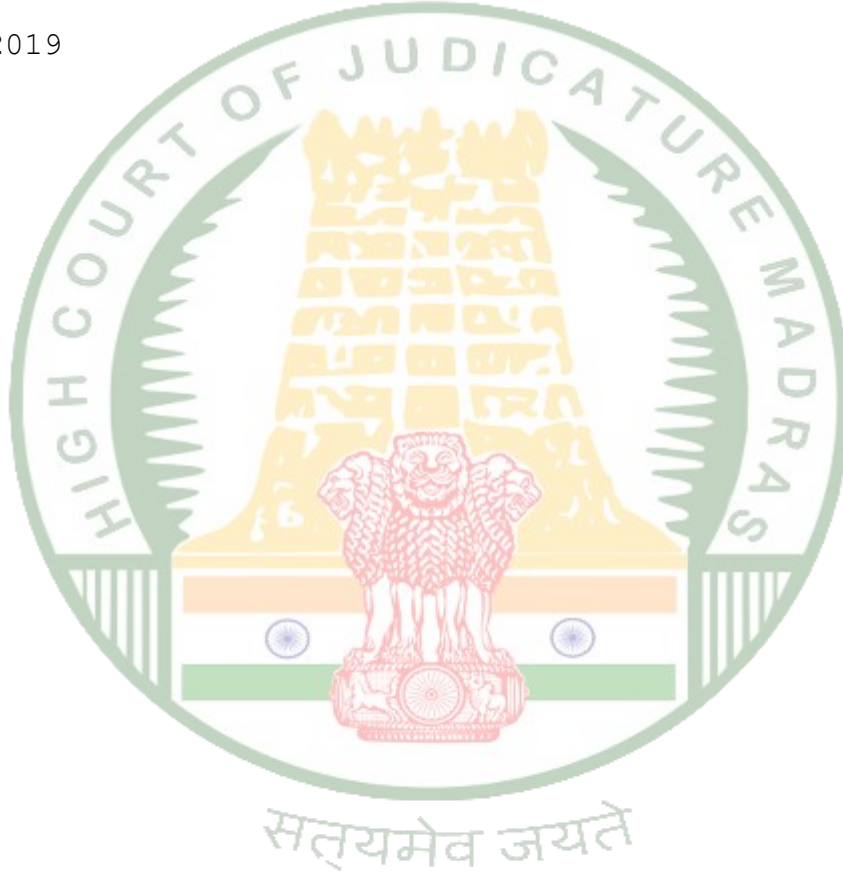
To

The Secretary,
Commercial Taxes and Registration Department,
Fort St. George, Chennai - 600 009.

+1cc to Mr.G.Appavu, Advocate, S.R.No.26327
+1cc to Mr.D.Shivakumaran, Advocate, S.R.No.26350
+1cc to the Government Pleader, S.R.No.27231

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SAI (CO)
CS/03/05/2019



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