C.M.P.No.18242 of 2019
in T.C.A.SR No.52936 of 2013

T.S.SIVAGNANAM, J.
and
V.BHAVANI SUBBAROYAN, J.

(Order of the Court was made by T.S.Sivagnanam, J.)

Heard Mr.Venkat Narayanan, learned counsel, for M/s.Subbaraya Aiyar, Padmanabhan and Ramamani, for the petitioner/assessee; and Mr.T.Ravikumar, learned Senior Standing counsel for the respondent/Revenue.

2.There is a delay of 2220 days in re-presenting the above tax case appeal. Similar matters were heard by us on 26.08.2019 where the delay was 1599 days and by our order dated 26.08.2019, the following order was passed:

> *"Heard Mr.Venkat Narayanan, learned counsel, for M/s.Subbaraya Aiyar, Padmanabhan and Ramamani, for the petitioner/assessee; and Mr.T.Ravikumar, learned Senior Standing counsel for the respondent/Revenue.*
>
> *2.These civil miscellaneous petitions have been filed to condone the delay of 1599 days in re-presenting the above tax case appeals, which were filed against the order of the Income Tax Appellate Tribunal 'D' Bench, Chennai, dated 26.09.2014.*
>
> *3.The General Manager and CFO of the petitioner*

Bank has filed affidavits in support of the condone delay petitions. The deponent has stated that persons, who were handling the income-tax matters of the petitioner Bank have resigned their jobs and left the Bank and persons, who were newly appointed in their place, when following up of the matter, found the papers relevant to these appeals during the review of pending tax matters. Thereafter, the papers were handed over to the clerk of their counsel, who had kept the same in his custody for re-presentation and for rectification of all the defects, but unfortunately, he was suffering from terminal illness and passed away during December, 2015.

4.It is further stated that the papers got misplaced and after great difficulty, the papers were traced by the new clerk of the petitioner counsel and the appeal papers were prepared and re-presented and hence, there is a delay in re-presentation, which is neither wilful, nor wanton, but due to the circumstances explained above.

5.We have seen the original appeal papers. As mentioned earlier, the impugned order passed by the Tribunal is dated 26.09.2014. The appeal was presented in the Registry of this Court on 24.02.2015 and we find that while presenting the appeal papers, requisite Court fee, stamp, batta form, coding sheet and a docket containing the tax case appeal grounds were filed. The appeal papers were scrutinised by the Registry and returned on 26.02.2015 *for rectifying the following defects:-*

(i) Typed set to be filed;

(ii) Provision of law not given;

(iii) Memorandum of grounds incomplete and not signed by the advocate;

(iv) Certified copy of order not filed in T.C.A.SR Nos.15561, 15563, 15565,15567 and 15569 of 2015;

(v) Vakalat not filed;

(vi) Batta with authenticated copies of grounds are not filed;

6.Though the Registry pointed out the above defects, the petitioner did not comply with the defects, but merely re-presented the papers to the Registry on 09.03.2015. Once again, the papers were scrutinised, and the Registry returned the papers on 11.03.2015 mentioning that the previous return has not been complied with and it appears that the learned counsel for the petitioner had received the returned papers on 12.03.2015. The papers were re-presented on 05.08.2019 and while re-presenting, the docket of the tax case appeal grounds alone has been retained and fresh grounds have been filed, typed set has been filed only in July, 2018 and vakalat was filed on 05.08.2019. Thus, considering the above, it is clear that the appeal was not properly presented before the Court to be entertained.

7.The petitioner is a Nationalised Bank and the

General Manager and CFO of the petitioner Bank has filed affidavits in support of the condone delay petitions. The reason assigned in paragraph 3, stating that the persons who were handling the income-tax matters of the petitioner Bank have resigned their job and left the Bank, is absolutely vague statement. Further, it is stated that the persons, who are newly appointed in their place, when following up of the matter found papers relevant to this appeal during the review of pending tax case matters, this again is a vague statement. Both the statements are not supported with any data or names of persons etc.

8.The learned counsel for the petitioner vehemently contended that on account of the untimely demise of the clerk attached to the office of the petitioner's counsel, the papers could not be re-presented.

9.As pointed out by us earlier, the stand taken in the affidavits for not being able to re-present the papers is far from being satisfactory. However, taking note of the submission that the clerk attached to the office of the petitioner's counsel had passed away and the learned counsel had some difficulty in re-presenting the papers, we are inclined to condone the delay, however, subject to payment of cost.

10.Accordingly, the delay in re-presentation is condoned subject to payment of cost of Rs.1,500/- (Rupees One Thousand and Five Hundred only) for each appeal. The *cost shall be paid to the Tamil Nadu State Judicial Academy within a period of three weeks' from the date of receipt of a copy of this order.*

3.Following the above order, the delay in re-presentation is condoned subject to payment of cost of Rs.2,000/- (Rupees Two Thousand only). The cost shall be paid to the Tamil Nadu State Judicial Academy within a period of three weeks' from the date of receipt of a copy of this appeal.

(T.S.S., J.) **(V.B.S., J.)**
27.08.2019

Note : Issue order copy on 30.08.2019.

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T.S.SIVAGNANAM, J.
AND
V.BHAVANI SUBBAROYAN, J.

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