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HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 374 of 2020

1. M/s Chhattisgarh Surgical, A Partnership Firm Duly Registered Under The Relevant Provisions Of The Partnership Act, 1932 Having Its Office At Dhamtari, District : Dhamtari, Chhattisgarh
2. Mr. Ketan Doshi, S/o Shri Bipin Doshi, Aged About 51 Years, Partner Of Chhattisgarh, Surgical And Resident of Rta Bandha Road Dhamtari, District : Dhamtari, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through Its Secretary, Commercial Tax Department, Mantralay New Raipur, District : Raipur, Chhattisgarh
2. The Additional Commissioner, Commercial Tax Raipur, District : Raipur, Chhattisgarh

-----Respondents

For Applicants	: Mr. Sameer Oraon, Advocate
For State	: Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07.08.2020

1. The present MCC has been filed seeking restoration of writ petition i.e., WPT No. 143 of 2016, which was dismissed on default for non-appearance on 13.11.2017.
2. Subsequent to dismissal of that writ petition, after more than one year time, the petitioner preferred an MCC i.e., MCC No. 62 of 2019 for seeking restoration of the aforesaid writ petition. The said MCC was allowed by this Court on 28.01.2019, subject to depositing cost of Rs. 20,000/- to be paid within a period of fifteen days. It was very specifically ordered while allowing the MCC on 28.01.2019 that in

case, if the amount is not deposited within a period of fifteen days, the order dated 28.01.2019 would lose its efficacy.

3. In-spite of that order being passed, the petitioner chose not to comply with that order and as such, the dismissal of the original writ petition continued to hold good. Thereafter, now after a period of about one year and eight months, the petitioner/applicant has again preferred another MCC seeking for restoration of earlier MCC and also the restoration of WPT No. 143 of 2016.
4. There is no justifiable reasons given by the petitioner/applicant in the present MCC for not complying with the order dated 28.01.2019 within the stipulated period neither is there any plausible explanation provided in the MCC giving reasons for not approaching the Court seeking for condonation of delay in not complying with the order dated 28.01.2019.
5. From the act and conduct of the petitioner/applicants, it appears that they were not serious in contesting the case at all, nor was the petitioner diligent or vigilant in pursuing with the case. The counsel took the order of this Court too casually rather took the order of this court for granted that is the reason the petitioner inspite of the matter getting dismissed twice, the petitioner approached the Court seeking restoration after an inordinate delayed period of time.
6. This Court therefore finds that there is not much merit in the MCC seeking for restoration, however, since the fact that, the writ petition was dismissed in default, reluctantly though, this Court again is inclined to allow the present MCC, subject to a further cost of Rs. 20,000/- be deposited along with the earlier cost that was imposed in

MCC No. 62 of 2019 within a period of thirty days from today.

7. Subject to the petitioners/applicants depositing the entire amount within the stipulated period, WP(T) No. 143 of 2016 shall stand restored to its original number. It is made clear that in case, in the event the petitioners/applicants fail to deposit the amount within the stipulated period, the order passed in the present MCC would lose its efficacy.
8. With the aforesaid observations, the present MCC stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge