

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2020

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.M.P.No.27362 of 2019
C.R.P.(NPD).Sr.No.101713 of 2017

The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore - 641 001. ... Petitioner

Vs.

1. S.Nagendran
2. N.Vijayalakshmi ... Respondents

PRAYER: Civil Miscellaneous Petition filed under Section 5 of Limitation Act to condone the delay of 2572 days in filing the above petition.

For Petitioner : Mr.K.Magesh

For Respondents: Mr.S.Ramesh Kumar

O R D E R

The Civil Revision Petition is directed against the order passed by the First Additional District Judge, Coimbatore, on 07.08.2009 in C.M.A.No. 68 of 2009 confirming the order of the Appellate Tribunal. Against the order dated 07.08.2009, the revision came to be filed on 30.09.2019 with the delay of 2572 days that is almost after seven years.

2. The reason stated for condoning the delay is extracted in paragraph No.6 of the affidavit, which reads as under :-

"6. I humbly submit that during the year 2011 in accordance with Government order the Corporation jurisdiction has been extended and the Zones were realigned. Accordingly, the entire file pertaining to the above said case was misplaced and the post of the suit clerk was vacant and the same could not be traced immediately. Moreover, the counsel Mr.Sikkandar Basha who handled tax cases for petitioner Corporation before the District Court,

Coimbatore passed away during the year 2012 and the petitioner was not able to get the certified copy of the order immediately. Thereafter, the petitioner Corporation appointed another counsel to handle the cases handled by the previous counsel, Mr.Sikkandar Basha. However, the present file has been misplaced in the advocate office as well as the Corporation and hence the Corporation is not able to follow the above case for filing C.R.P. in time."

3. There are no specific details as to when the order copy dated 07.08.2009 was received by the petitioner and as to when it was given to the counsel and the reasons for the delay. The averments made in paragraph Nos. 6 and 7 of the affidavit are very vague and bereft of specific details. Even after engaging panel Advocate in the year 2012, the reason for delay is not explained for the period at least between 2012 and 2019. The unexplained delay disentitles the petitioner seeking condonation of delay.

4.The petitioner/Corporation has slept over their rights for a longer period. It is also relevant to state that five years is the unit for revising the taxes. There is no detail as to whether the tax was revised after the completion of five years from the order of the Tribunal. Without following the case diligently, a litigant cannot throw the entire blame on the Lawyer and take shelter under administrative exigencies. The reason for the delay shall be sufficient and satisfactory. In the present case, I do not find any satisfactory reason to exercise the Petition is dismissed. However, it is made clear that this order will not stand in the way of issuing a revised demand notice as per law for the prospective period.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

ms/asi

To

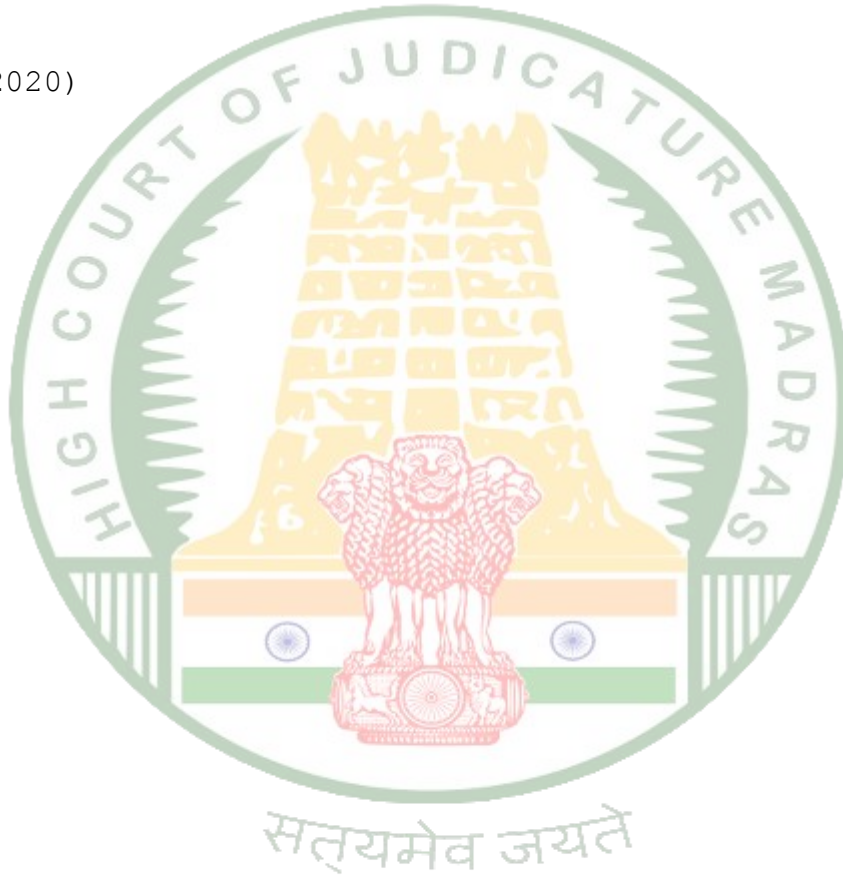
1.The I Additional District Judge
Coimbatore

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The Sub Assistant Registrar
(AE) Section
High Court, Madras 104.

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