BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.09.2020
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.8965 of 2020 and
W.M.P.(MD)Nos.8194 & 8195 of 2020

Dr.N.Ramamoorthy ... Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Commercial Taxes Department,
Secretariat, Chennai - 9.

2. The Deputy Registrar of Chit,
Thiruchirapalli.

3. M/s.Margadharasi Chits (P) Ltd.,
TAB Complex, 1st Floor,
41, Bharathidasan Salai,
Cantonment, Thiruchirapalli -1.

4. V.Narayana Moorthy,
S/o.P.Venkatesan,
Proprietor,
M/s.Sri Abirami Appliances,
No.119, Pudhukottai Main Road,
Subramaniapuram,
Trichy - 625 020. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in G.O.(Ms)No.43, Commercial Taxes and Registration(G) Department dated 24.02.2020 on the file of the first respondent and quash the same and direct the third respondent to number the appeal and dispose of the same on merits.

For Petitioner	:	Mr.N.Karthik Kanna
For R-1 & R-2	:	Mr.K.Sathiya Singh, Additional Government Pleader.
For R-3	:	Mr.R.Devaraj

O R D E R

Heard the learned counsel on either side.

2. The fourth respondent herein was a chit subscriber in the chit group run by the third respondent. He had taken the prize amount. But he committed default. Therefore, the third respondent filed ARC.No.54 of 2006 before the second respondent herein. The

petitioner herein was the guarantor. He was also made a party to the said proceedings. The Deputy Registrar of Chit passed an award in favour of the third respondent on 19.06.2009. The petitioner filed the instant chit appeal before the Government in the year 2020. But there was a huge delay in filing the appeal. The first respondent by the impugned order took the stand that the delay is enormous and it has not been sufficiently explained.

3. This order refusing to condone the delay on the part of the petitioner is put to challenge in this writ petition.

4. Though the learned Additional Government Pleader appearing for respondents 1 and 2 as well as the learned counsel appearing for the third respondent submitted that the impugned order does not warrant any interference.

5. I am of the view that the petitioner deserves to be given an opportunity. This is for more than one reason, the petitioner was not a person who personally borrowed. He is the guarantor. That apart, he has specifically averred in the affidavit filed in support of this writ petition that the award passed by the second respondent was not communicated to him. It is also seen that the third respondent filed an execution petition only in the year 2019. The petitioner states that only thereafter, he became aware of passing of the award by the second respondent.

6. There is no material to indicate that the award was communicated to the writ petitioner herein. Hence, the Government Order impugned in this writ petition stands quashed. The delay occasioned in filing the chit appeal before the first respondent stands condoned. The first respondent shall number the chit appeal and dispose it of on merits and in accordance with law within a period of sixteen weeks from the date of receipt of a copy of this order.

7. With the aforesaid terms, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Secretary to Government of Tamil Nadu,
   Commercial Taxes Department,
   Secretariat, Chennai – 9.

2. The Deputy Registrar of Chit,
   Thiruchirapalli.

+1 CC to M/s.R. DEVARAJ, Advocate (SR-17676[F] dated 22/09/2020)

W.P.(MD)No.8965 of 2020
21.09.2020

SRK(CO)
AP(30/09/2020) 3P 4C