



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. (MD) No.10297 of 2019

and

WMP (MD) No.7935 of 2019

G.Jeyahandra

... Petitioner

vs.

1) The Chairperson,
Debts Recovery Appellate Tribunal,
55, Eithraj Salai,
Chennai.

2) The Presiding Officer,
Debts Recovery Tribunal,
IV, Floor, Kalyani Tower,
Melur Road,
Madurai.

3) The Branch Manager,
Syndicate Bank,
Neyyoor,
Kanyakumari District.

4) The Authorised Officer,
Syndicate Bank, Regional Office,
R.S.Puram,
Coimbatore.

5) Florance

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent pertaining to the order passed in AIR (SA) No.461 of 2017 dated 18.02.2019 and quash the same and consequently direct the 1st respondent to hear the case on merits and in accordance with law.

For Petitioner	: Mr.S.Suresh
For R1 & R2	: No appearance
For R3 & R4	: Mr.R.Pandivel
For R5	: Mr.R.Vijayakumar



ORDER

[Order of the Court was made by ***The Hon'ble Chief Justice***]

The petition is directed against the order dated February 18, 2019 passed by the Debt Recovery Appellate Tribunal at Chennai.

2.By the order impugned, the delay in preferring the appeal against the order dated August 03, 2015 was not condoned. There was a delay of 701 days. There was a further delay of 100 days on the ground that papers were mixed up.

3.The petitioner says that a previous writ petition, W.P(MD) No.14588 of 2015 was not entertained by this Court by an order of July 11, 2017. Such order provided inter alia as follows:-

'2..... In case, any such appeal is filed within a period of thirty days, the same shall be entertained, taking into account the pendency of the writ petition before this Court challenging the order passed by the Debt Recovery Tribunal, dated 03 August, 2015.'

4.Ordinarily, a forum which does not entertain a matter and sends the suitor before it to the appropriate forum does not have any authority to decide on limitation, for, it is the receiving forum that has exclusive authority in such regard. However, the High Court in exercise of its authority under Article 226 of the Constitution is some times magnanimous in making an observation that tantamounts the delay being condoned in advance, but the order dated July 11, 2017 was not such an order as it permitted the petition to be entertained upon court taking into account the pendency of the writ petition before this Court.

5.Thus at the very highest, the period of limitation had to be taken into account by excluding, perhaps, the time spent by the petitioner herein between the date of institution of the previous writ petition and the date of its effective dismissal.

6.In any event, it does not appear that the relevant order of this Court was brought to the notice of the Tribunal. At any rate, the appellate Tribunal's order does not record the same.

7.It is usual for borrowers in this country to prey on the misplaced sympathy that Courts some times demonstrate. The petitioner in this case is deemed to have been aware that his remedy against the order of the Debt Recovery Tribunal is later on before the Debt Recovery Appellate Tribunal. If the petitioner choose to file a writ petition and suffer an order of dismissal, it is the petitioner who is to blame for the delay ultimately not being condoned.

<https://hcservices.courts.gov.in/hcservices/> 8. There does not appear to be any error on the face of the



order impugned dated February 19, 2018 passed by the Debt Recovery Appellate Tribunal in this case.

9.W.P(MD)No.10297 of 2019 is dismissed. There will be no order as to costs.

WEB COPY

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

bala

To

1)The Chairperson,
Debts Recovery Appellate Tribunal,
55, Eithraj Salai,
Chennai.

2)The Presiding Officer,
Debts Recovery Tribunal,
IV, Floor, Kalyani Tower,
Melur Road,
Madurai.

+1 CC to M/s.R.VIJAYAKUMAR, Advocate (SR-27223[F] dated 25/08/2021)

+1 CC to M/s.AIYAR & DOLIA, Advocate (SR-27257[F] dated 25/08/2021)

W.P(MD)No.10297 of 2019

DATED : 24.08.2021

GC(06.09.2021) 3P 5C