BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

Review Application (MD) No.49 of 2024
in
W.P(MD)No.14388 of 2021

Tvl.Sri Balamurugan & Co.,
Represented by its Partner,
P.Natarajan,
4/119, Dharapuram Road,
Ambilikai,
Dindigul District. ... Petitioner / Petitioner

-Vs-

1. The Tamil Nadu Sales Tax Appellate Tribunal,
   [Additional Bench],
   Madurai - 625 020.

2. The Assistant Commissioner [ST] - II,
   Palani. ... Respondents / Respondents

PRAYER : Petition filed under Order XVII Rule 1 r/w Section 114 of the Civil Civil Procedure Code to direct the first respondent / respondent herein to entertain the petition filed by the petitioner on 21.10.2021, under Regulation 8 of the Tamil Nadu Value Added Tax Tribunal Regulations, 2011 to set aside the *ex-parte* order passed in Madurai Tribunal State Appeal No.418 of 2021 dated 04.04.2018 and decide the same on merits as per the directions of this Court issued vide order in W.P.(MD)No.14388 of 2021 dated 13.08.2021.

For Petitioner : Mr.A.Chandrasekaran

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

O R D E R

This review application has been filed against the order passed by the writ Court dated 13.08.2021 made in W.P.(MD)No.14388 of 2021.

2. In the said order dated 13.08.2021, this Court in the operative portion has passed the following order:

> *"11.In that view of the matter, this Court feel that, it is open to the petitioner to file appropriate application under Regulation 8 as indicated above, to set aside the exparte order, dated 04.04.2018, which is exactly impugned herein, and such attempt shall be made by the petitioner within a period of two weeks, and if such an application is filed, the same shall be considered and order shall be passed, especially, with regard to the delay in approaching the Tribunal in filing the said application to set aside the exparte order, wherein, the*

> *aforesaid observation shall be borne in mind by the first respondent Tribunal and accordingly, necessary orders to that effect shall be passed.*
>
> *12.With these observation and direction, this Court feel that the petitioner can be relegated to approach the Tribunal as indicated above, and accordingly, this writ petition is disposed of. However, there shall be no order as to costs."*

3. This Court had directed the petitioner to file an appropriate application under Regulation 8 before the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) at Madurai within a period of two weeks.

4. Though it has not been specifically mentioned that, the two weeks period is from the date of receipt of a copy of the order, it has also not been specifically mentioned that, the two weeks period is from the date of the order.

5. Normally, in the time bound orders, if some outer limit is given to make any application or appeal before the authority concerned, the time would start only from the date of receipt of the copy of the order. Otherwise, if it is specifically mentioned in order itself that, the period would start from the date

of the order, there alone the period can be calculated from the date of the order. In all other cases, the period can be calculated only from the date of the receipt of the copy of the order.

6. Herein the case in hand, the web copy of the order has been available in the website on 11.10.2021 and the certified copy was made on 26.10.2021 which was delivered to him on 18.11.2021. Nevertheless, without waiting the receipt of the certified copy of the order, the petitioner, on the basis of the web copy which was made available on 11.10.2021, has chosen to file the said application as directed by this Court, on 21.10.2021. Thus, within a period of 14 days, i.e., two weeks, the said application has been filed.

7. However, the Tribunal having considered the said application has returned the same by its order dated 15.11.2021 to the following effect:

"*N.Dis No:1905/2021/A1*

Returned

According to the High Court order W.P. (MD)No:1438 of 2021 dated 13.08.2021, the Appeal should be filed with in two weeks from the date of passing of order. But you have filed the appeal petition on 21.10.2021, that is after 55 days. Hence this appeal petition is returned.

Secretary
Tamil Nadu Sales Tax Appellate
Tribunal (Addl.Bench) Madurai-20."

8. Only in that circumstances, belatedly the petitioner had filed this review application where the delay has already been condoned.

9. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

10. Since the petitioner has filed the said application or petition on 21.10.2021 based on the availability of the web copy order which was made available to him on 11.10.2021, from that date, if it is calculated, the period is only within ten days since the application had been filed, it cannot be stated that, it was filed beyond the two weeks period as allowed by this Court. Therefore, at that reason, since the application filed by the petitioner has not been entertained and it has been returned through the return memo dated 15.11.2021, it triggered the petitioner to file this review application.

11. In fact the order passed by this Court does not require review except to make a clarification to that effect that, the two weeks period provided in the

order dated 13.08.2021 in paragraph No.11 means that, the two weeks period would commence from the date of receipt of the copy of the order.

12. If that being so, on 11.10.2021 since the web copy has been made available, therefore, from that date, if limitation period of 14 days, i.e., two weeks is taken, that would be end up on 25.10.2021 alone, but before such date, the application had been filed on 21.10.2021. Therefore, it should have been entertained and decided on merits by the Tribunal.

13. With these clarifications by permitting the petitioner to represent the said application along with the copy of this order, this Review Application is disposed of accordingly. However, there shall be no order as to costs.

13.03.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
vji

Note: Issue order copy by 18.03.2024

To

1. The Tamil Nadu Sales Tax Appellate Tribunal,
   [Additional Bench],
   Madurai - 625 020.

2. The Assistant Commissioner [ST] - II,
   Palani.

R.SURESH KUMAR, J.

vji

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