BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.M.P.(MD).No.13547 of 2023
in
T.C.R.(MD).SR.No.71072 of 2023

The State of Tamil Nadu,
Represented by The Joint Commissioner (ST),
Madurai Division,
Madurai. .. Petitioner/Petitioner

Vs.

Shri Annalakshmi Spinning Mills P Ltd.,
at NH-45, Trichy Road, Velvarkottai (Post),
Vedachandur – 624 803,
Dindigul District. .. Respondent/Respondent

PRAYER in C.M.P.(MD).No.13547 of 2023: Civil Miscellaneous Petition filed under Section 60(1) of the TNVAT Act, 2006, praying to condone the delay of 86 days in filing this tax case revision against the order made in MTSRA.No.44 of 2022 dated 28.02.2023.

PRAYER in T.C.R.(MD).SR.No.71072 of 2023: Petition filed under Section 60 of the TNVAT Act, 2006, praying to set aside the impugned order passed by the Tribunal in MTSRA.No.44 of 2022 in MTSMP No.137 of

2020 dated 28.02.2023 and to restore the appeal before the Tribunal for disposing on merits.

For Petitioner	:	Mr.A.K.Manikkam Special Government Pleader
For Respondent	:	Mr.B.Rooban

ORDER

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

This Civil Miscellaneous Petition is filed to condone the delay of 86 days in filing the tax case revision against the order made in MTSRA.No.44 of 2022 dated 28.02.2023.

2. The learned Special Government Pleader appearing for the petitioner/State relied upon the observation made by the Hon'ble Supreme Court in the case of ***Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others*** reported in ***(2013) 12 SCC 649***, wherein, the Supreme Court, while considering an application for condonation of delay, has stated as below:

> *"The State or a public body or an entity representing a collective cause should be given some acceptable latitude."*

3. The learned Special Government Pleader would submit that the issue of tax evasion to a tune of Rs.11,00,000/-, which is the subject matter of this petition, was not properly considered by the Tribunal and therefore, the Review Application was preferred. However, the said Review Application was dismissed without proper consideration of the facts and hence, the State intends to prefer a Tax Case Revision before the High Court under the supervisory jurisdiction, but there is a delay of 86 days, which needs to be condoned in view of the observation and dictum laid down by the Hon'ble Supreme Court as stated above.

4. The learned counsel appearing for the respondent strongly opposed the condone delay petition on the ground that it is not a mere delay of 86 days in preferring the tax case. In fact, the assessment order, which came to be challenged before the appellate authority, was disposed as early as on 15.06.2018. Thereafter, the State preferred appeal before the Tamil Nadu Sales Tax Appellate Tribunal and the same was dismissed on 03.09.2021. The State, instead of preferring further appeal before the High Court, thought it fit to file a Review Application and the said Review Application in MTSRA.No.44 of 2022 came to be dismissed on 28.02.2023. Against

that order, T.C.R.(MD)SR.No.71072 of 2023 is filed along with a condone delay petition, which has now been taken up for consideration.

5. As rightly pointed out by the learned counsel for the respondent, it is not a mere delay of 86 days in filing the tax case, wherein, the Court can give some acceptable latitude for condonation of delay. The genesis of the matter starts with the assessment order of the year 2015-16 dated 15.06.2018. A vigilant litigant cannot take his own time and approach the forum, just because they represent the State and the State involved is State Revenue. Like any other litigant, the State also has some responsibility and cannot knock the doors of justice as and when they like. Hence, this petition for condonation of delay is dismissed as no sufficient cause is stated for the delay. Consequently, T.C.R.(MD).SR.No.71072 of 2023 is rejected.

(G.J.,J.) (C.K.,J.)
03.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

Lm

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