(1999) 11 AP CK 0020

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 127 of 1991

Hyderabad Industries Limited APPELLANT

Vs

State of Andhra Pradesh RESPONDENT

Date of Decision : 11-11-1999

Acts Referred:

Citation : (2000) 120 STC 91

Hon'ble Judges : V. Eswaraiah, J;P. Venkatarama Reddi, J

Bench : Division Bench

Advocate : K. Srinivasa Murthy, for the Appellant; Special Government Pleader for Taxes, for the Respondent

Final Decision : Allowed

Judgement

P. Venkatarama Reddi, J.—Aggrieved by the order of the Tribunal in not extending the time further for filing the "D" forms, the present tax revision case is filed by the assessee. The Tribunal noted that despite the fact that the time was extended as a last chance till January 31, 1991 by an order dated January 11, 1991 passed in T.M.P. No. 4 of 1991, the petitioner failed to file the "D" forms and, therefore, the Tribunal saw no valid grounds to extend the time beyond January 31, 1991.

2. It is seen from the record that in the affidavit filed in support of the first petition for extension of time, the petitioner elaborately explained the circumstances under which the "D" forms could not be obtained from the Kerala State authorities. The petitioner requested time up to March 31, 1991 for producing the "D" forms. But, the Tribunal granted time up to January 31, 1991 only. It is further seen from the record that the "D" forms were issued by the Kerala Water Authority, Trivandrum, on February 23, 1991. A few days thereafter, the application was filed for further extension of time. By the date of filing the second petition for extension, the two "D" forms were obtained from Kerala Water Authority and copies thereof were filed before the Tribunal. In these circumstances, we are inclined to take the view that the Tribunal ought to have

further extended the time in the interests of justice ; otherwise, the just claim of the petitioner will be defeated by unintentional omission to file the "D" forms. The fact that the petitioner has been pursuing with the concerned authorities of the Kerala State to issue the "D" forms by the date of filing the first petition for extension and that the petitioner followed it up by taking diligent steps after the extension of time was granted by the Tribunal cannot be denied, as seen from the unrebutted facts in the affidavits filed by the petitioner and the issuance of "D" forms on February 23, 1991. The previous delay need not be given much importance to defeat the claim of the petitioner because the Tribunal itself thought it a fit case to give an opportunity to the petitioner to file the "D" forms while disposing of the appeal. We have no manner of doubt, in the absence of the finding of the Tribunal to the contrary, that the petitioner did take reasonable and diligent steps after the time was granted and later on extended. These circumstances, coupled with the fact that while extending the time on the second occasion, the Tribunal granted only twenty days'' time as against two months'' time requested by the petitioner and that the petitioner was able to get the "D" forms within three weeks thereafter, impel us to take the view that the Tribunal should have adopted a more liberal approach and, therefore, in the peculiar circumstances of the case, the Tribunal committed a legal error in not granting extension of time for production of "D" forms filed along with the application for extension. We, therefore, set aside the order of the Tribunal and direct the assessing authority to receive the two "D" forms issued by the Kerala Water Authority and to give the necessary relief if they are otherwise in order.

The tax revision case is allowed to the extent indicated above. No costs.

