

(2014) 07 MAD CK 0035

In the Madras High Court

Case No : C.M.A. No. 1606 of 2014 and M.P. No. 1 of 2014

North Star Shipping Services Pvt. Ltd.

APPELLANT

Vs

Commr. of S.T.

RESPONDENT

Date of Decision : 17-07-2014

Acts Referred:

Citation : (2015) 51 GST 390 : (2015) 37 STR 707

Hon'ble Judges : R. Sudhakar, J;G.M. Akbar Ali, J

Bench : Division Bench

Advocate : V.S. Manoj, Advocates for the Appellant

Judgement

R. Sudhakar, J.—This appeal has been preferred by the appellant against the Final order No. 40434/2013, passed by the 2nd respondent dated 1-8-2013 2015 (37) S.T.R. 270 (Tribunal), wherein the following substantial questions of law have been raised:--

"(i) Whether in the facts and circumstances of the case, the Tribunal was right in dismissing the condonation of delay petition? (ii) Whether in the facts and circumstances of the case, the Tribunal erred in not relying upon the decision of the Supreme Court in the case of Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others, , wherein it has been clearly held that a litigant does not stand to benefit by lodging an appeal late and that refusing to condone the delay can result in meritorious matters being thrown out at the very threshold and cause of justice is being defeated?

(iii) Whether in the facts and circumstances of the case the Tribunal is right in dismissing the petition on the ground, that there is gross negligence and inaction on the part of the applicant, without appreciating the circumstances, which led to the delay in filing the appeal?

(iv) Whether in the facts and circumstances of the case, the Tribunal was correct in ignoring the decision of the Madras High Court in the case of Areva T and D India Ltd. Vs. Joint Commissioner of Income Tax, wherein it has been held that

the Court should adopt a pragmatic approach and exercise their discretion on the facts of each case keeping in mind that in construing the expression sufficient course the principle of advancing substantial justice if of prime importance and expression sufficient cause should receive a liberal construction?"

The primary issue raised by the appellant in this appeal is the order has been passed by the Tribunal declining to condone the delay in filing the appeal before the Tribunal. However, a perusal of the typed set of papers would reveal that the relevant papers pertaining to the application filed before the Tribunal for condonation of delay is not enclosed therein. This attitude of the appellant would only go to show that the appellant is not serious in pursuing the matter and is only trying to drag on the proceedings. Without the relevant papers, that are required to decide the matter, available on record, this Court is not in a position to consider the plea, as advanced by the appellant, on merits. It would also be pertinent to point out here, that the above document, viz., the application for condonation of delay, is a very relevant document, which is very much required for adjudicating the present appeal, as the said document alone would show the stand taken by the appellant before the Tribunal for condoning the delay. In the absence of the said vital document, the veracity of the stand taken by the appellant before this Court itself becomes questionable. The non-furnishing of the above said document along with the typed set of papers would by itself show the callousness with which the appellant is dealing with the matter, which would stand proof of the fact that the appellant is not interested in pursuing the matter.

2. In the above circumstances, this Court is not inclined to entertain this appeal and, accordingly, the same is dismissed. Consequently, connected miscellaneous petition is also dismissed.