(1983) 08 MAD CK 0051

In the Madras High Court

Case No : Tax Case No. 613 of 1983 (Revision No. 204 of 1983)

Sakthivel Factory APPELLANT

Vs

The State of Tamil Nadu and Another RESPONDENT

Date of Decision : 19-08-1983

Acts Referred:
Tamil Nadu General Sales Tax Act, 1959 — Section 38

Citation : (1984) 57 STC 214

Hon'ble Judges : Ratnam, J;G. Ramanujam, J

Bench : Division Bench

Advocate : K.M. Santhanagopalan, for the Appellant;

Judgement

Ramanujam, J.—In this tax case, the petitioner seeks to canvass the correctness of the order of the Tribunal rejecting the application of the petitioner for condonation of the delay of 120 days in filing the appeal before the Tribunal. We do not see how this revision could be entertained by us. u/s 38 of the Tamil Nadu General Sales Tax Act, 1959, a revision could be entertained from the order of the Tribunal only on a question of law. Here the order passed by the Tribunal is a discretionary one. The Tribunal did not choose to exercise its discretionary power to excuse the delay in filing the appeal, and no question of law can be said to arise from such a discretionary order. In this case, the petitioner filed the appeal after a delay of 120 days, along with an application for the condonation of the delay. The delay was sought to be explained by the petitioner by producing a medical certificate showing that the petitioner was suffering from peptic ulcer and that she was advised complete rest. The Tribunal has taken the view that, even assuming that the petitioner was suffering from peptic ulcer, that would not prevent the petitioner from instructing or authorising some one to file an appeal on behalf of the petitioner, and that therefore the petitioner has not shown sufficient cause for not filing the appeal in time. We are not in a position to find any error in the order passed by the Tribunal. The tax case is accordingly dismissed.

