(2000) 09 AP CK 0007

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 57 of 1992

Sri Kanyaka Metal Mart APPELLANT

Vs

State of A.P. RESPONDENT

Date of Decision : 21-09-2000

Acts Referred:

Citation : (2001) 123 STC 468

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

Bench : Division Bench

Advocate : K. Raji Reddy, for the Appellant; The Special Government Pleader for Taxes, for the Respondent

Final Decision : Dismissed

Judgement

P. Venkatarama Reddi, J.—The petitioner filed an appeal against the assessment order belatedly. The petition for condonation of delay was rejected by the Appellate Deputy Commissioner. Against that order the petitioner preferred an appeal to the Tribunal again with delay. That petition was being adjourned from time to time. On December 4, 1990 it was dismissed for default as there was no representation. It is the case of the petitioner that the counsel came a little late on account of vehicle breakdown and by that time, the petition was dismissed for default. The Tribunal was not prepared to accept this explanation. The Tribunal observed that if that was the fact, nothing prevented the petitioner from filing a restoration petition immediately or within a reasonable time. The petitioner waited for 10 months for filing the restoration petition. The explanation given by the learned counsel for the petitioner is that on receipt of certified copy of the order dated December 4, 1990 the petitioner filed the application for restoration of the appeal. It is difficult to accept this explanation. No reasonable person, faced with a similar situation, would normally wait for considerable time till he receives the certified copy of the order. It was open to the petitioner to seek exemption from filing certified copy of the formal order of the Tribunal dismissing the petition for default. We are therefore, of the view that the Tribunal was justified in dismissing the restoration petition. We cannot say that the Tribunal has decided any question of law erroneously. The tax revision case is dismissed.

