(1990) 09 AP CK 0008

In the Andhra Pradesh High Court

Case No : T.R.C. No. 54 of 1990

T. Ramanuja Setty and Brothers — APPELLANT

Vs

State of Andhra Pradesh — RESPONDENT

Date of Decision : 17-09-1990

Acts Referred:

Citation : (1991) 81 STC 82

Hon'ble Judges : P.L.N. Sarma, J;A. Lakshmana Rao, J

Bench : Division Bench

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

Judgement

A. Lakshmana Rao, J.—Heard the learned counsel for the petitioner as well as the learned Government Pleader for Commercial Taxes appearing for the respondent.

2. The petitioner herein filed an appeal before the Sales Tax Appellate Tribunal on July 21, 1987. It is stated that the authorised agent of the appellant had sent the vakalat by registered post on August 4, 1987, to the Sales Tax Appellate Tribunal and that it was received by the Tribunal on August 10, 1987. The learned counsel has produced the postal acknowledgment showing that the registered letter containing the vakalat was received by the Sales Tax Appellate Tribunal on August 10, 1987. However, the appeal was posted for hearing on October 25, 1988 and notice was served on the party on October 21, 1988. As neither the appellant nor the authorised agent appeared on that day, the appeal was dismissed for default on October 25, 1988. Having come to know of the dismissal of the appeal for default, it is stated that the authorised agent had filed T.M.P. No. 51 of 1989 on January 9, 1989, seeking restoration of the appeal. That petition was dismissed on June 7, 1989, on the ground that the authorised agent did not file any vakalat on behalf of the appellant. Aggrieved by that order, this revision petition is filed.

3. It is submitted by the learned counsel for the petitioner that the authorised

agent had sent the vakalat by registered post to the Sales Tax Appellate Tribunal on August 4, 1987, it was received by the Tribunal on August 10, 1987, and in such a case the Tribunal is not justified in dismissing the appeal for default without giving notice to the authorised agent.

4. On the other hand, it is submitted by the learned Government Pleader that the authorised agent had not filed any vakalat on behalf of the appellant and no such vakalat was found in the records. The learned counsel for the petitioner has produced the postal acknowledgment showing that the registered letter containing the vakalat was sent by the authorised agent to the Sales Tax Appellate Tribunal on August 4, 1987 and the same was received on August 10, 1987, by the Tribunal. It may be noticed that the appeal itself was filed by the authorised agent and immediately after he came to know of the dismissal of the appeal for default, he filed T.M.P. No. 51 of 1989 for restoration of the appeal. These facts show that the authorised agent was diligently pursuing the matter. In these circumstances, we are of the view that it will meet the ends of justice if the appeal is restored to file and disposed of in accordance with law after giving an opportunity of being heard to the authorised agent of the appellant. The authorised agent shall file a fresh vakalat on behalf of the appellant within three weeks from today. On the filing of the vakalat, the Sales Tax Appellate Tribunal shall issue notice to the authorised agent of the appellant and dispose of the appeal on merits in accordance with law.

5. In these circumstances, the order under revision is set aside. The Sales Tax Appellate Tribunal shall take the appeal on file and dispose it of in accordance with law after giving an opportunity of being heard to the authorised agent of the appellant. No order as to costs.

6. Petition allowed.