

(1970) 02 MAD CK 0024

In the Madras High Court

Case No : Tax Case No. 442 of 1969 (Revision No. 313)

The Progressive Printers

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 25-02-1970

Acts Referred:

Citation : (1970) 26 STC 438

Hon'ble Judges : Ramaprasada Rao, J;Ramanujam, J

Bench : Division Bench

Advocate : C. Venkataraman, C. Natarajan and D. Srinivasan, for the Appellant;

Final Decision : Dismissed

Judgement

Ramaprasada Rao, J.—We are of the view that in a tax revision case, this court is very hesitant to interfere with the discretion exercised by

a statutory tribunal which refused to condone the delay in the presentation of an appeal before it. The facts are not disputed. The main appeal

against the order of the Appellate Assistant Commissioner was to be filed on 8th January, 1967. But, in fact, it was filed on 10th January 1967.

But the admitted tax was not paid. Therefore, the relevant papers were returned to the appellant for rectification of the defects. In spite of the

knowledge that the admitted tax was not paid in time, the appellant delayed the matter and such tax was paid only on 13th February, 1967. The

only explanation for this is that his office staff were inefficient. After the appeal papers were returned, they were re-submitted nearly six months

later and here again, the explanation is that the papers were displaced (probably misplaced) in the office of the appellant. In these circumstances,

the Tribunal finds that there is absolutely no explanation for the long delay and

refused to condone it. As against this the present tax case has been filed seeking for a revision of the order of the Tribunal. It is normal for this court not to interfere with the discretion of the Tribunal, if it has excused the delay in the filing of the appeal or in the proper presentation of the appeal. But in the converse case where the Tribunal refused to exercise its discretion and excuse the delay, then the court would be rather slow to interfere with such an order. Further, there should be an explanation for the delay, which is palpably acceptable and reasonably believable. The Tribunal finds that there is no such explanation offered by the appellant either in the matter of the delayed payment of the admitted tax or in the re-presentation of the papers after it was returned for rectification of defects. In such a case the argument of the learned counsel that the bona fides in the matter should be considered does not arise. The bona fides of a situation or conduct of a litigant is subject to scrutiny only if he has sufficiently explained himself by factual details as to what he did was beyond his control. If no such explanation was given, the question of consideration of such bona fides in his conduct does not and cannot, therefore, arise. The order of the Tribunal is correct.

2. This tax case is dismissed.