

(2009) 10 KAR CK 0013

In the Karnataka High Court

Case No : Writ Petition No's. 14198 of 2008 and 3680 of 2009 (T-TAR)

We Help

APPELLANT

Vs

Asstt. Commr. of C. Ex. and Service Tax

RESPONDENT

Date of Decision : 30-10-2009

Acts Referred:

Citation : (2011) 22 STR 353

Hon'ble Judges : P.D. Dinakaran, C.J;Ashok B. Hinchigeri, J

Bench : Division Bench

Advocate : B.R. Prasanna, for Ram Bhat Associate, for the Appellant;
Raghavendra B. Hanjer, CGSC, for the Respondent

Final Decision : Allowed

Judgement

Ashok B. Hinchigeri, J.—The Customs, Excise and Service Tax Appellate Tribunal, by its order, dated 31-8-2005 in S.T. Nos. 16 and 17/2006 2008 (230) E.L.T. 648 dismissed the Petitioner's appeal, as the Petitioner, despite grant of 14 adjournments, did not care to argue the matter. The Appellate Tribunal rejected the application for the condonation of the delay holding that there is no sufficient ground to condone the delay; consequently the appeal also stood dismissed.

2. Although we totally disapprove of the conduct of the writ Petitioner, we are of the considered view that one more opportunity has to be given to the Petitioner. We therefore set aside the order, dated 31-8-2005 (Annexure-F) passed by the Appellate Tribunal in S.T. Nos. 16 and 17/2006. We remand the matter to the Appellate Tribunal to consider the application for the condonation of delay afresh. The Petitioner is directed to appear before the said Appellate Tribunal on 16-11-2009 without waiting for any notice from the Appellate Tribunal. If he fails to turn up before the Appellate Tribunal on 16-11-2009, it may dismiss the application for the condonation of delay and consequently the appeal. If the Petitioner appears on 16-11-2009 and argues out his case, the Appellate Tribunal shall dispose of the matter within 45 days thereafter, i.e., from 16-11-2009.

3. The writ petitions are allowed accordingly. All the contentions are kept open.