

**Jaln Stores of Bombay Vs. the State of Bombay**

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**Court :** Sales Tax Tribunal STT Mumbai

**Decided On :** Jul-26-1955

**Reported in :** 19567STC415Tribunal

**Judge :** K Sen, M Vakil, R Mehta

**Appellant :** Jaln Stores of Bombay

**Respondent :** The State of Bombay

**Judgement :**

1. This is an application for revision of an order of the Collector of Sales Tax refusing to condone the delay in filing a revision application before him, and accordingly dismissing the said revision application on the ground of limitation. The revision application filed before the Collector of Sales Tax was dated the 26th July, 1954, the order which the applicants sought to get revised by him dated the 29th January, 1954. Before making the order the Collector asked the applicants why the application should not be rejected as time-barred, and he found that the reply given, viz., that the delay might have been in the Assistant Collector's sending to the applicants the order dismissing the appeal before him, was not in accordance with the facts.

We see no reason to interfere in this case.

2. Shri Shroff has contended that at one stage the Additional Collector of Sales Tax had required the applicants to pay Rs. 400 before 10th September, 1954, "for

admission of the revision application", and that on their paying Rs. 400, the revision application had been admitted, so that it should be presumed, according to his contention, that the delay in filing the revision application had been condoned. We do not find, however, that the question of condonation of the delay was considered at any stage earlier than the proceedings of the Collector of Sales Tax. In our opinion, the endorsement of the Additional Collector of Sales Tax below a letter written by him to the Revenue Collector dated 13th August, 1954, in which the applicants were required to pay Rs. 400 "for admission of the revision" had no reference to the question of limitation at all. Shri Shroff has also relied on a decision of the Bombay High Court, *Champalal Asharam v. Commissioner of Income-tax* [1953] 23 I.T.R. 464. There an appeal before the Appellate Assistant Commissioner had been filed beyond limitation, and a notice had been issued by the Appellate Assistant Commissioner calling upon the assessee to show cause why his appeal should be entertained although out of time and the assessee had shown cause. Thereafter a notice was issued by the Appellate Assistant Commissioner under Section 31 to the effect that the appeal preferred by the assessee had been received and registered by the office of the Appellate Assistant Commissioner and a date was fixed for hearing and the final disposal of the appeal. After the assessee had shown cause the Appellate Assistant Commissioner did not decide that no sufficient cause had been shown by the assessee for condonation of the delay, but instead of coming to that conclusion the said officer issued a notice for the hearing of the appeal. Even on the supposition that the delay had been condoned, their Lordships observed as follows : "But it is open to the Appellate Assistant Commissioner, having taken the view at the intermediate stage under Section 30(2) that delay should be condoned, and having admitted the appeal, to revise his decision and, when the appeal comes on for hearing under Section 31 to take a different view and dismiss the appeal on the ground that no sufficient cause was shown for condoning the delay". The facts in the present case, however, are not similar to those in that case, as here no notice to show cause why the delay should be condoned was issued to the assessee. We think that it was open to the Collector of Sales Tax to decide after hearing the applicants that their application should be rejected as time-barred.

3. We, accordingly, see no reason to interfere with the order of the Collector, and this application is dismissed.

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