

icco Engineers Vs. Appellate Assistant Commissioner (Commercial Taxes) Iii

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Court : Chennai

Decided On : Aug-12-1968

Reported in : [1969]23STC71(Mad)

Judge : Veeraswami and ;Ramaprasada Rao, JJ.

Appeal No. : Writ Petition No. 2076 of 1968

Appellant : icco Engineers

Respondent : Appellate Assistant Commissioner (Commercial Taxes) Iii

Advocate for Def. : The Assistant Government Pleader

Advocate for Pet/Ap. : S.C. Shah, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Veeraswami, J.

1. There was a delay of 8 days in filing the appeal before the Appellate Assistant Commissioner (Commercial Taxes), Madras-10, and also while presenting the appeal the second proviso to Section 31(1) was not complied with. Later on the admitted tax was paid. But it appears on a wrong view of the matter the Appellate

Assistant Commissioner found that the appeal was out of time and dismissed it, stating that there was no sufficient cause for the delay.

2. We do not think that the second proviso could be mixed up with or both the provisos could be read into one another. They provide for two separate matters. If and when the admitted tax is fully paid the appeal becomes entertainable. Nevertheless, the question of limitation may arise. In that event the relevant proviso will be the first one which enables the officer in case of sufficient cause for the delay to excuse the delay. In the circumstances of this case we are satisfied that there was sufficient cause.

3. The writ petition is allowed. There will be a direction to the Appellate Assistant Commissioner aforesaid to entertain the appeal and dispose it of in accordance with law. No costs.

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