

No condonation of delay in filing appeal if assessee failed to reveal the source of wrong advice given by its counsel

Summary – The High Court of Karnataka in a recent case of Sporthi Sadan Convent., (the Assessee) held that where appellant trust explained delay in filing appeal against rejection of application for registration on plea that appellant trust believed that registration was not condition precedent for seeking relief under section 11, but appellant trust could not reveal source of such impression or advice, delay in filing appeal could not be condoned

Facts

- The appellant trust had filed an application for registration under section 12A, for registration of trust, which was rejected by the Commissioner.
- The appeal was presented before the Tribunal with delay of 997 days. The case of the appellant-trust was that it was not aware of law that registration was required to get exemption under section 11. The Tribunal recorded a finding that the assessee could not give name of counsel who had advised in this regard. Further, the appellant-trust could not explain reason for delay occurred in filing the instant appeal. The Tribunal dismissed the appeal of the appellant-trust as having barred by limitation.
- On appeal:

Held

- Delay was sought to be explained on two grounds - Firstly, that trust was under *bona fide* impression that such a registration was not condition precedent for seeking relief under section 11 of the Income-tax Act, 1961. Secondly, that the appellant trust was advised wrongly. In order to substantiate the said contention no material was placed before the Tribunal. The Tribunal has given sufficient opportunity to the appellant to substantiate its claim that it was ill advised by the consultants. With regard to the requirement of registration, the trust has apparently not shown any reasonable cause nor answered the queries raised by the Tribunal during the course of hearing.
- This is not a case wherein the appellant is an illiterate person, who may not know the repercussion in law. Further, it is the specific case of the appellant that the trust based on advise, was under *bona fide* impression that registration under section 12A was not a condition precedent. But, nonetheless, the appellant neither chose to reveal the source of such advice nor replied to the questions posed by the Tribunal, in such circumstances, the appeal challenging the order of the Tribunal is only a reiteration of grounds urged before the Tribunal.

- Ignorance of law is no excuse. The Supreme Court in the case of *Swadeshi Cotton Mills Co. Ltd. v. Government of U.P.* [1975] 4 SCC 378, has held that ignorance of law is not an excuse for not taking appropriate steps within limitation.
- In the circumstances, it is to be held that the appellant had not made out any ground for condonation of delay of 997 days before the Tribunal. There was no error in the order passed by the Tribunal.