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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **W.P.(C) 3176/2015**

ITD ITD-CEM JOINT VENTURE ..... Petitioner
Through: Mr. M.P. Devnath with Mr. Abhishek Anand and Mr. Yogendra Aldak, Advocates.

versus

THE COMMISSIONER OF SERVICE TAX & ANR ..... Respondents
Through: Mr. Rahul Kaushik, Sr. Standing counsel.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

<u>O R D E R</u>
% **14.03.2016**

1. This is the second round of litigation. In the first round, this Court passed an order on 10th December 2014 in Writ Petition (Civil) No. 8759 of 2014 directing the Respondents to verify the documents produced by the Petitioner in support of its claim for refund.

2. Pursuant to that order, as well as the subsequent order dated 16th January 2015 extending the time to complete that exercise, an order was passed on 28th January 2015 by the Assistant Commissioner of Service Tax, Division – XII, New Delhi rejecting the Petitioner's claim for refund. This order has been challenged in the present writ petition.

3. Admittedly, the order under challenge is an appealable one. The Court sees no reason why the Petitioner should be permitted to by-pass the statutory remedy as available to it in that regard.

4. Learned counsel for the Petitioner states that the appeal may be time barred.

5. The Court directs that in the event that Petitioner files a statutory appeal against the impugned order dated 28th January 2015 accompanied by an application for condonation of delay, the Appellate Authority will take the note of the period during which the present petition was pending.

6. With the above observations, with liberty to the Petitioner to challenge the impugned order in accordance with law, the writ petition is disposed of.

7. Order be given *dasti.*

S.MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 14, 2016
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