

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms JUSTICE J.UMA DEVI

Writ Petition No.11501 of 2017

Order: (per V.Ramasubramanian, J.)

Challenging the garnishee orders issued by the 3rd respondent, after the dismissal of the appeal by CESTAT, an assessee has come up with the above writ petition.

2. Heard Mr. C.V. Narasimham, learned counsel for the petitioner, Mr. B.Narayana Reddy, learned Assistant Solicitor General of India for the 1st respondent and Mr. B.Narasimha Sarma, learned Senior Standing Counsel for the respondents 2 and 3.

3. As against an Order-in-Original passed on 27-01-2014, the petitioner filed an appeal to CESTAT. By an order dated 28-01-2015, CESTAT directed the petitioner to make a pre-deposit of Rs.50 lakhs on or before 06-5-2015. Since the petitioner failed to comply with the condition, the appeal was dismissed on 08-9-2016.

4. After the dismissal order, the petitioner complied with the pre-deposit condition in November, 2016 and filed an application for restoration. But for want of quorum, the restoration application could not be taken up for disposal by CESTAT. However, in the meantime, garnishee orders have been issued, forcing the petitioner to come up with the above writ petition.

5. Ideally, it would be proper to allow the appeal filed by the petitioner before CESTAT to be restored to file in the light of the compliance with the condition stipulated by the Tribunal, albeit, with a delay. In this case, what is challenged in only the garnishee order.

6. Though the compliance with the conditions imposed by the Tribunal had happened after the dismissal of the appeal, an application for restoration is nevertheless pending. Therefore, the whole exercise cannot be made futile by recovering the amount at this stage.

7. Hence, the writ petition is disposed of directing the respondents not to proceed with any coercive steps, till the disposal of the restoration application by the Tribunal. The garnishee order is kept in abeyance till the disposal of the restoration application. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

24th April, 2017.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms JUSTICE J.UMA DEVI

Writ Petition No.11501 of 2017
(per VRS, J.)



24th April, 2017.
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