IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Writ Appeal No.624 of 2016

V.R.Mohanraj ...Appellant

Vs.

1.Commissioner of Service Tax-I
Newry Towers, No.2054
Second Avenue, Anna Nagar
Chennai - 600 040.

2.Joint Commissioner of Service Tax
Newry Towers, No.2054
Second Avenue, Anna Nagar
Chennai - 600 040. ... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order dated 20.04.2016 in Writ Petition No.34481 of 2015.

WP.No.34481 of 2015:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other appropriate Writ or order or directions as this Hon'ble Court deem fit and propert, Calling for the records on the file of the 2nd Respondent vide proceedings in Order-in-Original No.32/2015-ST-1 dated 17.08.2015 and to quash the same and further direct the 1st Respondent to pass orders considering the detailed Reply letter dated 06.07.2015 filed by the Petitioner and issue VCES Form No.3

For Appellant : Mr.V.K.Mohanraj

For Respondents : Mr.A.P.Srinivas

J U D G M E N T

(made by K.K.SASIDHARAN, J.)

The learned counsel for the appellant made an endorsement indicating that he is withdrawing the appeal with liberty to file a statutory appeal before the appropriate authority.

2. The learned counsel for the appellant submitted that the appellant has paid the entire principal service tax and as such, there is no question of once again paying 7 1/2% of the duty as a condition precedent for filing appeal under Section 35-F of the Central Excise Act, 1944

3. In view of the endorsement made by the learned counsel for the appellant, the intra court appeal is dismissed as withdrawn. No costs.

4. We permit the appellant to file an appeal before the appropriate authority. In case the appeal is filed on or before 19 March 2018, the same shall be entertained by the Appellate Authority notwithstanding the delay, in as much as the appellant has filed the writ petition challenging the final order passed by the Appellate Authority within the period of limitation prescribed for filing the appeal against the said order. We also make it clear that the Appellate Authority shall consider the question of waiver of pre-deposit, in view of the payment of the entire principal service tax by the appellant, which is found in the order dated 17 August 2015. Since the matter relates to the year 2015, the Appellate Authority shall dispose of the appeal on merits and as per law as expeditiously as possible and in any case within a period of four months from the date of receipt of the appeal memorandum.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

svki/maya

To

1.Commissioner of Service Tax-I
Newry Towers, No.2054
Second Avenue, Anna Nagar
Chennai - 600 040.

2.Joint Commissioner of Service Tax
Newry Towers, No.2054
Second Avenue, Anna Nagar
Chennai - 600 040.

+1 cc to Mr.A.P.Srinivas Advocate sr 10207
+1 cc to Mr.Karthik Advocate sr 10181

Writ Appeal No.624 of 2016

ak(co)
aa06/03/2018