

*THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

*THE HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

+WRIT PETITION No.11044 of 2018

%09-04-2017

M s.Durga Shakthi Agencies,
28-4-691/ A, Engineering College Road,
Sarada Nagar, Anantapur, Andhra Pradesh,
Rep. by its Proprietor

.. Petitioner

Vs.

\$ Union of India, Ministry of Finance
Department of Revenue, Rep. by its Secretary
to Government of India, New Delhi, and others

.. Respondents

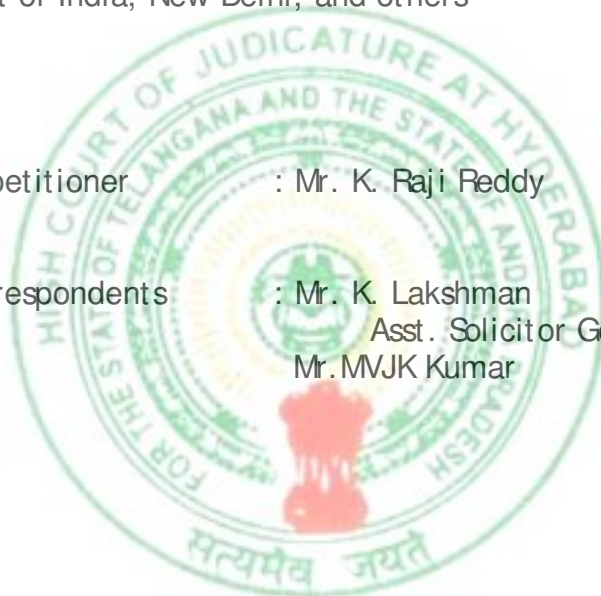
! Counsel for petitioner : Mr. K. Raji Reddy

^ Counsel for respondents : Mr. K. Lakshman
Asst. Solicitor General
Mr.MVJK Kumar

<GIST:

>HEAD NOTE:

? CASES REFERRED : ----



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WRIT PETITION No.11044 of 2018

ORDER: (Per V. Ramasubramanian, J)

Aggrieved by the order of CESTAT refusing to restore an appeal decided in the absence of the petitioner, the petitioner has come up with the above writ petition.

2. Heard Mr.K.Paji Reddy, learned counsel for the petitioner and Mr.MVJK Kumar, learned senior standing counsel for the respondents.

3. The application for restoration of the appeal was dismissed by the Tribunal on the short ground that the appeal was disposed of on merits and that therefore, there was nothing to restore. Heavy reliance is placed upon the statement recorded by the Tribunal in the order dated 20.04.2017 in the main appeal to the effect that the Advocate for the petitioner had given a letter requesting the Tribunal to decide the issue on merits. But, according to the petitioner, he never instructed his Advocate to give such a letter.

4. The very purpose of engaging a consultant or a counsel before the Tribunal is to argue the case. Therefore, we are of the considered view that the petitioner can be given one opportunity. After all the petitioner would have paid the pre deposit condition for filing the appeal. Such a person may not like the appeal to go unrepresented.

5. Therefore, the writ petition is allowed, the impugned order is set aside and the application for restoration is allowed. The Tribunal may fix a date for hearing. It is the duty of the petitioner to ensure that the petitioner is represented by counsel who argues the matter.

6. Consequently, miscellaneous petitions if any pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

April 09, 2018

KTL

