

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.6.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No.1606 of 2019
and
C.M.P.No.10964 of 2019

Udumalpet Municipality
rep. by its Commissioner,
Dhali Road,
Udumalpet 642 126. .. Appellant/Petitioner

Versus

The Additional Commissioner of
Central Excise,
6/7, A.T.D. Street, Race Course Road,
Coimbatore 641 018. .. Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent
against the order of this court dated 19.12.2018 in W.P.No.33893
of 2018.

Prayer in W.P.No.33893 of 2018:-

Writ Petition filed under Article 226 of the Constitution of
India, may be please to issue a writ of Certiorari at any other
appropriate writ, call for the entire records relating to
Orders- in - Original No.30-34/2016 dated 29.2.2016 passed by
the Respondent and quash the same.

For appellant : Mr.T.Ramesh

JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

Appellant-Udumalpet Municipality has unnecessarily filed the
present Writ Appeal before this court even though the learned
Single Judge, vide the impugned order dated 19.12.2018, had
dismissed the writ petition only on the ground of availability
of alternative remedy of Appeal against the impugned Assessment
Order passed by the Assessing Authority under the Service Tax
Law.

2. We are rather surprised at the litigating attitude of the public Body like Municipality for pursuing the matter by invoking the writ jurisdiction without availing the normal and ordinary remedy of appeal before Departmental Authority available to them under the law, like any other Assessee. It is nothing but, a sheer waste of time and public money. We are not inclined to entertain this intra-court Appeal at all at the instance of Municipality.

3. Therefore, we dismiss the present Writ Appeal with a direction to the Appellant-Municipality to approach the Appellate Authority against the impugned order. The Appellate Authority will sympathetically consider the condonation of delay and will entertain the Appeal on merits if the same is filed within 30 days from today subject to compliance with other usual conditions. The connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssk.

To:

The Additional Commissioner of Central Excise,
6/7, A.T.D. Street, Race Course Road,
Coimbatore 641 018.

+1 cc to M/s.T.Ramesh, Advocate, Sr.No. 44920

CSL/14.06.2019

W.A.No.1606 of 2019

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