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ss/jks
29.02.2024

MAT 694 of 2016
With
CAN 1 of 2016 (Old CAN 4371 of 2016)
With
CAN 2 of 2016 (Old CAN 4374 of 2016)

Commissioner of Service Tax
Vs.
M/s. Astha & Ors.

Mr. K.K. Maiti
Mr. Tapan Bhanja

... ... for the appellant

1. Heard Shri K. K. Maiti, learned counsel for the appellant and learned counsel for the respondents.
2. By the impugned order dated 17.02.2016 in WP 29982 (W) of 2015 (M/s. Astha & Anr. Versus Tollygunge Division & Ors.) the writ petition was disposed of by imposing cost of Rs.25,000/- upon the respondent assess and a direction to the tribunal that in the event cost is deposited, the tribunal shall decide the delay condonation application of the respondents/petitioners in accordance with law as expeditiously as possible.
3. It is stated by learned counsel for the respondents/petitioners that the cost was deposited but due to pendency of this appeal, the tribunal had not decided the delay condonation application of the respondents/petitioner.
4. We find that the present appeal is a frivolous appeal filed by the appellant without any sense of responsibility and without any real grievance. It appears to have been filed in a mechanical manner.

Learned Single Judge has neither condoned the delay nor issued any direction to the tribunal to condone the delay. Learned Single Judge has merely directed that on deposition of the cost by the respondents/petitioners, their application for condonation of delay shall be decided in accordance with law.

5. In view of the aforesaid, the appeal is dismissed. However, it is directed that in the event the delay condonation application has not yet been decided by the tribunal pursuant to the order dated 17.02.2016 passed by the learned Single Judge in WP 29982 (W) of 2015, then it shall be decided by the tribunal within one month from the date of submission of the certified copy of this order before him.

(Surya Prakash Kesarwani, J.)

(Rajarshi Bharadwaj, J.)