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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6174/2024, CM APPLs. 25684/2024 & 25685/2024

ANKIT MADAN

..... Petitioner

Through: Mr.Ramesh Singh, Sr.Adv with
Mr.Sumit K.Batra, Mr.Manish
Khurana and Ms.Priyanka
Jindal, Adv.

Versus

REGISTRAR, CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL & ORS. Respondents

Through: Mr. Harpreet Singh, Sr.SC with
Ms.Suhani Mathur, Mr.Jatin
Kumar and Ms.Pritika Nagpal,
Adv.
Mr.Udit Malik, ASC for
GNCTD/R-2.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE PURUSHAINdra KUMAR

KAURAV

ORDER

02.05.2024

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1. The writ petitioner has approached this Court aggrieved by the order dated 18 April 2024 passed by the Customs, Excise and Service Tax Appellate Tribunal ["CESTAT"] and which has dismissed its application for restoration of the statutory appeal along with costs of INR 2 lakhs.

2. It appears that while faced with the spectre of a pre-deposit in order to pursue its appeal, the writ petitioner had on an earlier



occasion approached this Court by way of W.P.(C) 11182/2021 which along with other connected writ petitions came to be disposed of by the Court on 10 October 2022 with a direction to the writ petitioner to comply with the directions of pre-deposit within a period of 12 weeks.

3. When the matter was taken up before the CESTAT on 23 January 2023 the writ petitioner had gone unrepresented and consequently, the CESTAT could not be informed of the deposit having been made. Taking into account the aforesaid, the CESTAT proceeded to dismiss the appeal itself bearing in mind the peremptory directions we had framed in our order while disposing of the writ petition.

4. The CESTAT was thereafter moved by way of an application seeking restoration. That application proceeded on the assertion that the directions as framed by us had been duly complied with. The CESTAT was admittedly not informed of the delay that was caused in complying with the conditions of pre-deposit as were framed.

5. It is the aforesaid inaccurate and incorrect stand taken in the application for restoration which appears to have weighed upon the CESTAT to dismiss the same along with cost of INR 2 lakhs.

6. When the present petition was taken up for consideration today, we were informed that undisputedly the direction for affecting pre-deposits had been duly complied with albeit with a delay of 9 days. The writ petitioner should have consequently been candid enough to admit to the aforesaid facts while moving the CESTAT for restoration.

7. However, and bearing in mind the larger interest of justice, we are of the considered opinion that the appeal itself may be restored on the Board of the CESTAT bearing in mind the undisputed position that the condition of pre-deposit has been duly complied with.



8. We accordingly, allow the instant writ petition and set aside the impugned order dated 18 April 2024 in so far as it proceeds to reject the application for restoration.

9. Subject to the writ petitioner depositing costs of INR 2 lakhs within a period of two week from today, the appeal shall stand restored on the Board of CESTAT to be considered on merits and in accordance with law.

10. Since the condition of pre-deposit already stands complied with, no further coercive steps need be taken by respondent no.2 subject to further orders being passed by the CESTAT.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 02, 2024/MJ