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

\+ W.P.(C) 8254/2022

UNION OF INDIA .....Petitioner

Through: Mr.Ravi Prakash, CGSC with Mr.Farman Ali, Adv.

versus

NARENDRA KUMAR BAJPAI & ORS. .....Respondents

Through: Mr.S.Sunil, Adv. for R-1.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MS. JUSTICE SHALINDER KAUR

O R D E R

% 02.08.2024

CM APPL. 44019/2024 (impleadment)

1. This is an application filed by the petitioner seeking impleadment of Customs Excise and Service Tax Appellate Tribunal (CESTAT) as a party respondent in the writ petition.
2. Learned counsel for the respondent no.1, who appears on advance notice, opposes the application by urging that a similar application being CM APPL.30220/2022 earlier filed by the petitioner seeking impleadment of the CESTAT already stands dismissed as not pressed on 12.07.2022. He, therefore, contends that the present application seeking the same relief is not maintainable.
3. In response, learned counsel for the petitioner submits that the said application was withdrawn not because the petitioner did not want CESTAT to be impleaded as a party but only because this Court expressed the view that the records from the CESTAT could always be summoned without impleadment of CESTAT. Learned counsel for

the respondents does not dispute this position.

4. Having perused the order dated 12.07.2022 and considered the submissions of learned counsel for the petitioner, though we find merit in the petitioner's plea that in the eventuality, the petitioner's challenge to the impugned order fails, it is the CESTAT that would be required to implement the same, once a similar application seeking impleadment of CESTAT as party respondent stands dismissed on 12.07.2022, the present application would not be maintainable. However, taking into account the factual matrix explained by the learned counsel for the petitioner, which position is admitted by the learned counsel for the respondents, we clarify that the order dated 12.07.2022 would not be construed as the learned counsel for the petitioner having withdrawn the said application on his own. We therefore make it clear that the said application was withdrawn only on account of this Court observing that since the Department of Revenue, Ministry of Finance was already before this Court, there was no requirement of the learned CESTAT being formally added as a party respondent.
5. Furthermore, we also find that the CESTAT was not even a party in the Original Application filed before the learned Central Administrative Tribunal (Tribunal) and no grievance in this regard was raised before the Tribunal.
6. In these circumstances, while we see no reason to entertain the present application, we once again make it clear that the withdrawal of CM APPL.30220/2022 was not on account of the petitioner voluntarily withdrawing the same but on account of the Court orally observing

that there was no requirement to implead CESTAT as the relevant record could always be produced before the Court.

7. The application is, accordingly, disposed of by once again reiterating that it will be open for the CESTAT to produce the relevant record before this Court, if deemed necessary.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 2, 2024
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