Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Excise Appeal No. 12592 of 2013-SM

(Arising out of OIA-PJ/191/VDR-I/2013-14 dated 24/06/2013 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

Biotor Industries Ltd **......Appellant**
Block No. 495, Coastal Highway Road,
Nr. Madhuwad Chokdi, At. Ekalbara, Taluka : Padara,
Vadodara, Gujarat

VERSUS

C.C.E. & S.T.-Vadodara-i **......Respondent**
1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat-390007

APPEARANCE
Shri. Mrugesh Pandya, Advocate appeared for the Appellant
Shri Ajay Kumar Samota, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (TECHNICAL), MR. RAJU

Final Order No. A/ 10375 /2023

DATE OF HEARING: 22.02.2023
DATE OF DECISION: 22.02.2023

Raju

This appeal has been filed by Biotor Industries Ltd.

2. Learned Counsel appearing for the appellant pointed out that the appellant had approached NCLT for resolution, however, since no resolution plan could be approved, the company has gone for liquidation. He pointed out that the identical circumstances in the case of M/S. Ultratech Nathdwara Cement Limited vide Order No. A/11268/2022 dated 20.10.2022. The appeal was dismissed as infructuous. He sought identical relief in this case as well.

3. Learned AR is also in aggrieved.

4. I find that the appellant has gone into liquidation Rule 22 of CESTAT (Procedure) Rules, 1982 prescribes as follows:-

> *"RULE 22. Continuance of proceedings after death or adjudication as an insolvent of a party to the appeal or application. — Where in any proceedings the appellant or applicant or a respondent dies or is adjudicated as an insolvent or in the case of a company, is being wound up, the appeal or application shall abate, unless an application is made for continuance of such proceedings by or against the successor-in-interest, the executor, administrator,*

receiver, liquidator or other legal representative of the appellant or applicant or respondent, as the case may be : Provided that every such application shall be made within a period of sixty days of the occurrence of the event : Provided further that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period so specified, allow it to be presented within such further period as it may deem fit."

In terms of the above rules since the appellant is getting wound up due to liquidation, the appeal shall abate. The appeal therefore, abates

(Dictated & Pronounced in the open court)

RAJU
MEMBER (TECHNICAL)

Prachi