

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD**

REGIONAL BENCH - COURT No.II

Service Tax Appeal No.71100 of 2018

(Arising out of Order-in-Appeal No.207-ST/ALLD/2018 dated 13/04/2018 passed by Commissioner (Appeals) Customs, Central Excise & Service Tax, Allahabad)

M/s Prakash Nurshing Home,

.....Appellant

(Civil Lines, Azamgarh)

VERSUS

Commissioner of Central Excise &

Service Tax, Varanasi

....Respondent

(38, MG Marg, Civil Lines, Allahabad-211001)

APPEARANCE:

None for the Appellant

Shri A.K. Choudhary, Authorised Representative for the Respondent

**CORAM: HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)**

FINAL ORDER NO.70502/2025

DATE OF HEARING : 18 July, 2025

DATE OF DECISION : 18 July, 2025

ANGAD PRASAD:

In the present case, appellant is absent on call. It is also observed that this appeal has been listed for hearing on 07.02.2019, 03.04.2019, 27.06.2019, 30.7.2019, 12.09.2019, 06.01.2020, 01.05.2024, 29.07.2024, 30.09.2024, 06.12.2024, 23.04.2025 and for today. The Counsel for the appellant either in person or through the letter has only sought taking adjournments in the matter.

2.0 Section 35C (1A) of the Central Excise Act, 1944 provides as follows-

"35C. Orders of Appellate Tribunal.-

(1A) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.”

RULE 20 of CESTAT Procedure Rules, 1982 provide as follows:-

Action on appeal for appellant’s default. — Where on the day fixed for the hearing of the appeal or on any other day to which such hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Tribunal may, in its discretion, either dismiss the appeal for default or hear and decide it on merits :

Provided that where an appeal has been dismissed for default and the appellant appears afterwards and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called on for hearing, the Tribunal shall make an order setting aside the dismissal and restore the appeal.

3.0 Hon’ble Supreme Court in the case of M/s Ishwar Lal Mali Rathod [Order dated September 20, 2021 in Special Leave Petition (Civil) Nos.1411714118 of 2021] condemning the practice of adjournments sought mechanically and allowed by the Courts/Tribunal’s.

4.0 In view of the above, we do not find any justification for adjourning the matter beyond three times which is the maximum number statutorily provided.

5. The Appeal is dismissed for non-prosecution in terms of Rule 20 of CESTAT Procedure Rules, 1982.

(Dictated and pronounced in open court)

**(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)**

**(ANGAD PRASAD)
MEMBER (JUDICIAL)**