CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

MISC Application No. ST/MISC/70100/2019
In
Service Tax Appeal No. 50685 of 2015

(Arising out of Order-in-Original No. 25/Commr./LKO/ST/2014 dated 12/11/2014 passed by Commissioner of Central Excise & Service Tax, Lucknow)

M/s Shreetech Engineering Services .....Appellant

(Plot No.-2, Sector-14, Anand Ashram, Vikas Nagar, Lucknow)

VERSUS

Commissioner of Central Excise & Service Tax,

....Respondent

(Ashok Marg, Lucknow.)

APPEARANCE:

Shri Abhinav Mehrotra, Advocate, for the Appellant
Shri Mohammad Altaf, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 70896/2019

Date of Hearing : 26/04/2019
Date of Decision : 26/04/2019

PER: ARCHANA WADHWA

The present Miscellaneous Application for Restoration of Final Order No. 72787/2018 dated 05.12.2018, vide which the assessee's appeal was dismissed for non-prosecution.

2. Ld. Advocate appearing for the appellant submits that their arguing counsel, who was come from Lucknow, was on his way to the Court but the matter was dismissed before he could reach. Appreciating the above stand of the appellant, we recall the said Final Order of dismissal, allow the Restoration Application and restore the appeal to its Original Number.

3. With the consent of both the sides, we proceed to decide appeal itself inasmuch as, we find that the impugned order is an

ex-parte order. For better appreciation, we reproduce the relevant paragraph from the impugned order:-

> *"On 17.11.2013 after issue of show cause notice Shree Dileep Kumar Srivastava, Advocate for the party submitted a letter informing that the assessee would like to be heard in person through its counsel and written submissions will be submitted soon. The party was given three dates of PH on 19.09.2014, 10.10.2014 & 29.10.2014, but neither did the party or its counsel came up for personal hearing nor did they file any defence reply with reply to the impugned show cause notice."*

4. As is seen from the above, though the Adjudicating Authority had provided three dates for personal hearing, which were not attended by them but the fact remains that the impugned order stands passed without the appellant having filed their defence or having attended the hearing. As such, in the interest of justice, we would like to give another opportunity to the appellant. Accordingly, we set aside the impugned order and remand the matter to Adjudicating Authority for fresh decision. Needless to say that the appellant would file their reply as soon as possible and preferably within a period of one month from the date of receipt of the present order. Further, the personal hearing dates fixed by the Adjudicating Authority would be attended by them without seeking any adjournments for the same.

5. Miscellaneous Application as also appeal get disposed of in above manner.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Ansari