

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

REGIONAL BENCH : COURT NO.I

Excise Appeal No.1988 of 2008

(Arising out of Order-in-Appeal No.111 to 113-CE/GZB/2008 dated 29.05.2008 passed by Commissioner(Appeals), Customs, Central Excise & Service Tax, Meerut-I.)

M/s. Paharpur Cooling Towers Ltd.

(Plot No.9, Site-IV, Industrial Area,
Sahibabad, Ghaziabad)

...Appellant

VERSUS

Commissioner of Central Excise, Meerut-I

(Room No.232, CGO Complex-I, Kamla Nehru Nagar,
Ghaziabad-201002.)

.....Respondent

WITH

Excise Appeal No.1989 of 2008

(Arising out of Order-in-Appeal No.111 to 113-CE/GZB/2008 dated 29.05.2008 passed by Commissioner(Appeals), Customs, Central Excise & Service Tax, Meerut-I.)

M/s.Paharpur Plastics

(Plot No.10, Site-IV, Industrial Area,
Sahibabad-201010, Ghaziabad,
Uttar Pradesh)

...Appellant

VERSUS

Commissioner of Central Excise, Meerut-I

(Room No.232, CGO Complex-I, Kamla Nehru Nagar,
Ghaziabad-201002.)

.....Respondent

AND

Excise Appeal No.1990 of 2008

(Arising out of Order-in-Appeal No.111 to 113-CE/GZB/2008 dated 29.05.2008 passed by Commissioner(Appeals), Customs, Central Excise & Service Tax, Meerut-I.)

M/s.Unispanners Private Ltd., Unit-II

(Plot No.9, Site-IV, Industrial Area,
Sahibabad, Ghaziabad,
Uttar Pradesh)

...Appellant

VERSUS

Commissioner of Central Excise, Meerut-I

.....Respondent

(Room No.232, CGO Complex-I, Kamla Nehru Nagar,
Ghaziabad-201002.)

APPEARANCE

Ms.Shaivya Agrawal (Proxy Counsel) for the Appellant (s)
Shri S.K.Singh, Singh, Authorized Representative for the Respondent

CORAM: HON'BLE MRS. ARCHANA WADHWA, MEMBER(JUDICIAL)
HON'BLE SHRI ANIL G. SHAKKARWAR, MEMBER(TECHNICAL)

FINAL ORDER NO. 71491-71493/2019

DATE OF HEARING : 31 July 2019
DATE OF DECISION : 31 July 2019

MRS. ARCHANA WADHWA :

The matters have a chequered history. The appeals were filed in the year 2008 and thereafter were being listed for disposal repeatedly. As the appellants were not represented and were not interested in pursuing the appeals, the same were dismissed for non-prosecution vide Final Order No.71433-71435/2017 dated 13 November 2017. It was observed in the said order of dismissal that the appeals were listed for final disposal on 12 May 2017, 7 July 2017, 25 August 2017, 13 November 2017. But the appellants were un-represented on all these dates.

2. However, subsequently on the application of the appellants, the said order of dismissal was recalled and the appeals were restored to their original numbers vide Miscellaneous Order No.70285-70287/2018 dated 13 September 2018 by appreciating the appellants' stand that the appearance could not be caused on 13 November 2017 as the appellants' Counsel was engaged by the department to represent them before the Hon'ble High Court. Though the said plea of the assessee was not appreciated, but in the interest of justice the order of dismissal was recalled and the appeals were restored.

3. Thereafter the matters were listed before Division Bench on 31 October 2018, when Ms.Shaivya Agrawal, Proxy Counsel appeared and sought adjournment. The matter were adjourned to 1 November 2018. Thereafter on 1 November 2018 again Proxy Counsel Ms.Shaivya Agrawal appeared and sought adjournment. The said request was accepted by the Bench and the matters were adjourned to 24 January 2019. Thereafter the matters were listed for final disposal on 14 May 2019. The appellant was absent on call and the following order was passed by the Bench:-

"On matter being called neither anybody appeared nor is there any adjournment request. We also note that the matter have earlier been dismissed for non-prosecution by observing that they were being repeatedly listed for final disposal and appellant were absent on every occasion. However, the matters were subsequently restored vide Miscellaneous Order No.70285-70287/2018 and were directed to be placed before the Division Bench. Thereafter also we note that the same had come up for disposal but were adjourned at the request of the appellant. Though we are of the view that the matters again are required to be dismissed for non prosecution as it seems that appellant are not interested in perusing the appeal but in the interest of justice, we adjourn the same once again to **19 June, 2019** but way of last chance."

4. On 19 June 2019, the appellant again requested for adjournment, which request was accepted with reluctance by observing as under:-

"Our attention stands drawn to an application by the Advocate seeking adjournment on the ground of her non-availability. It is seen that on the last date of hearing, the Bench had taken a serious view as the matter was being repeatedly adjourned at the request of the Advocate and on the other hand the appellant had filed an application for early disposal of the appeals.

2. However, in the interest of justice and by way of last chance, we adjourn the matter. List on 31 July 2019.

5. On matter being called today, Ms. Shaivya Agrawal appears and submits that the arguing counsel is busy before the Hon'ble High Court. However, she submits that she intends to argue the matter herself. On an objection raised by the Court Master that Ms. Agrawal does not have Vakalatnama of the appellant so as to represent their case, the learned Advocate fairly agrees that no Vakalatnama is available with her. Accordingly she prays that the matters may be adjourned and she would produce the Vakalatnama on the next date of hearing.

6. The said request of the learned Advocate stands strongly opposed by the learned Authorized Representative Shri S.K.Singh. It stands submitted before us that appearance by the Proxy Counsel and her readiness to argue the matter in the absence of Vakalatnama and subsequent request to further adjourn the matters so as to enable her to procure Vakalatnama is nothing but a ploy on the part of the appellants to further delay the matters.

7. After going through the above reproduced chequered history of the matter, we note that the appellants have been delaying the disposal of the appeals with a conscious mind. The appeals are almost 11 years old whereas this Bench of the Tribunal is disposing of appeals filed in the year 2018. The appearance of the Proxy Counsel today, without a Vakalatnama in her hands, clearly reflects upon the intention of the appellants not to proceed ahead with the matters. We note that the last order was passed on 19 June 2019 with almost one and a half month's time to the appellants, during which they could have executed Vakalatnama in favour of Ms.Shaivya Agrawal. Having not done that, the appellants are guilty of delaying the disposals of the appeals. All the

above facts compel us to dismiss the appeals again for non-prosecution. We order accordingly and dismiss all the appeals.

(Dictated and pronounced in the open court.)

SD/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

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