CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT NO. III

Customs Miscellaneous [ROA] Application No. 41522 of 2018
(on behalf of Appellant)
In
Customs Appeal No. 119 of 2012

(Arising out of Order-in-Appeal C.Cus. No. 261/2012 dated 18.04.2012 passed by the Commissioner of Customs (Appeals), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Zymo Nutrients Pvt. Ltd., : **Appellant**
A-114, Industrial Estate, Hebbal,
Mysore – 570 016

VERSUS

The Commissioner of Customs, **: Respondent**
Custom House,
No. 60, Rajaji Salai,
Chennai – 600 001

APPEARANCE:

Shri. S. Loknath, Consultant for the Appellant

Shri. K. Veerabhadra Reddy, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

MISC. ORDER NO. 40367 / 2019

DATE OF HEARING: 29.07.2019

DATE OF DECISION: **01.08.2019**

PER P. DINESHA:

By this application for Restoration of Appeal, the appellant is seeking the indulgence of this forum for recalling of Misc. Order Nos. 40715-40721/2018 dated 02.11.2018.

2. When the matter was taken up for hearing, Shri. S. Loknath, Ld. Consultant, appeared for the assessee-appellant and contended that the assessee had sent adjournment requests by Registered Post Acknowledgement Due, the acknowledgement for which was also received by the appellant. But however, this Bench has not considered the appellant's requests. On the other hand, the Court has only held that there was no appearance nor was there any request for adjournment and finally has dismissed the assessee's application.

3. *Per contra*, Shri. K. Veerabhadra Reddy, Ld. AR appearing for the Revenue, submitted that the Bench had only considered the non-appearance as also no requests for adjournment on record, but however, if the appellant demonstrates/furnishes documentary evidences for having sent request letters for adjournment, the same may be considered in the interests of justice.

4. We have considered the rival contentions.

5. Admittedly, on the date of hearing, as noted by the Bench, none appeared for the assessee, but however, on going through the documents furnished in support of the appellant's claim for having sent requests, we are of the opinion that in the interests of justice, the appellant should be given an opportunity to be heard on merits.

6. Accordingly, we restore the appeal and the Registry is directed post the appeal for hearing.

(Order pronounced in the open court on **01.08.2019**)

(P. VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

(P. DINESHA)
MEMBER (JUDICICAL)

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