CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
CHENNAI

Appeal No.E/856/2003

[Arising out of Order-in-Appeal No.190/2003-CE dated 25.07.2003 passed by the Commissioner of Central Excise (Appeals), Coimbatore]

M.M.Engineers Pvt.Ltd. Appellant

Versus

Commissioner of Central Excise, Coimbatore Respondent

Appearance:

None
For the Appellant

Shri K.P. Muralidharan, AC (AR)
For the Respondent

CORAM :

Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Madhu Mohan Damodhar, Technical Member

Date of hearing / decision : 10.03.2017

FINAL ORDER No. 40460/2017

Per D.N. Panda

None present for the appellant. When the matter was started listing from 2009, on one pretext or the other, appellant is seeking adjournment and that has been allowed. Seven years have passed but the appellant is not at all having any interest to pursue this appeal.

Customs, Excise & Service Tax Appellate Tribunal

2. It is brought to our notice that this appellant is located at Sundarapuram, Coimbatore called as Unit-II and with the similar name, another unit is located at R.S.Puram, Coimbatore called as Unit-I. Both were governed by common adjudication order dt. 27.3.2000. Although both of them claimed to be independent units, it was found that the manner they were operating, they were only one. When R.S.Puram unit came in appeal No.E/1144/2004 before Tribunal,, for belated appeal, that was dismissed vide Final Order No.319/2005 dt. 07.03.2005. Ld. D.R. says that against dismissal of appeal, appellant (Unit-I) was before Hon'ble High Court of Madras in W.P.No.14666 of 2005.

3. Without prejudice to the order of dismissal passed by Tribunal as above, this appeal has been looked afresh.

4. The order of ld. Commissioner (Appeals) shows the allegation against the units how they were operating at two different locations and enjoying benefit of SSI notification unduly. He found that appellant had never come out with clean hands to inform the department about its operations at two different places. It was claiming to be job worker and the other unit was claiming to be a manufacturer. When the appellant did not come out with clean hands to prove that they are in independent status of manufacturer, Revenue considered that those two units were created to be instrumentality for making undue gain of the SSI benefit. Therefore that was denied.

5. Even today, when then appellant has not appeared to defend against the allegations of Revenue, it appears that the present appeal is an abuse of process of law for which that is dismissed.

Customs, Excise & Service Tax Appellate Tribunal

6. It has been brought to our notice by ld. D.R that Hon'ble High Court of Madras while passing the order on 29-04-2005 has stayed the proceeding further in respect of Final Order No. 319/2005 dt. 07.03.2005 covered by W.P.No. 14666 of 2005 in respect of unit I. The order aforesaid has been passed is for no stay of the present proceeding before the Hon'ble High Court.

(Dictated and pronounced in open court)

13/03/17

(Madhu Mohan Damodhar)
Technical Member

10/3/2017

(D.N. Panda)
Judicial Member

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Customs, Excise & Service Tax Appellate Tribunal