

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

**REGIONAL BENCH – COURT NO.1**

**Customs Appeal Nos. 41618 to 41623 of 2015**

(Arising out of Order in Appeal No. C.Cus II No.387 to 392/2015 dated 31.03.2015  
passed by the Commissioner of Customs (Appeals -II), Chennai)

**Reliance Communications Infrastructure Ltd.      ...Appellant**

H Block, Dhirubai Ambani  
Knowledge City  
Thane Bellapur Road, Koparkhairane  
Mumbai, Maharashtra 400 701

Vs.

**The Commissioner of GST and Central Excise,      ....Respondent**

Commissioner of Customs  
Chennai II (Import Commissionerate)  
No.60, Rajaji Salai, Customs House  
Chennai, Tamil Nadu 600 001

**APPEARANCE:**

None for the Appellant

Ms. Rajni Menon, Authorised Representative for the Respondent

**CORAM:**

**HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)**

**HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)**

**FINAL ORDER Nos.41060-41065/2025**

**DATE OF HEARING: 24.09.2025**

**DATE OF DECISION:24.09.2025**

**Per Mr. AJAYAN T.V.**

When the matter came up for hearing on 24.09.2025, it was observed that there was no one to represent the appellant nor was there any request for adjournment. It is seen from case proceedings that these appeals pertain to the year 2015 and has come up for hearing on three earlier occasions on 25.06.2025, 31.07.2025 and 02.09.2025. On 02.09.2025, finding that the appellant was not represented, the matter was adjourned to 24.09.2025. It is seen that the notice sent to the appellant intimating the date of hearing as 24.09.2025 was despatched on 03.09.2025 and has been delivered on 10.09.2025 with reference to

the Consignment / MO tracking report of the postal department for article no IN000262871IN.

2. Ms. Rajni Menon, learned Authorized Representative appeared on behalf of the Revenue. Ld. A.R. has submitted that as per Section 35C of the Central Excise Act, 1944, no adjournment shall be granted for more than three times to a party during the hearing of the appeals. Ld. A.R has further contended that as per Rule 20 of CESTAT (Procedure) Rules, 1982, if the appellant does not appear on the date fixed for hearing, the Tribunal has the discretion to dismiss the appeal for default. Ld. A.R. strongly urged that given the disinterested approach of the appellant, the matter may be dismissed for default.
  
3. It is seen that the notice was sent by RPAD to the address provided by the appellant in the ST-5 Form has been delivered to the address provided in the Appeal Paper Book yet the appellant has not chosen to cause representation on its behalf or request for any adjournment citing valid reasons.
  
4. At this juncture, it would be apposite to reproduce the relevant statutory provisions, which are as under:  
 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.

5. In the decision of the Honourable Apex Court in ***ISHWARLAL MALI RATHOD VERSUS GOPAL AND ORS, 2021 (9) TMI 1301 - SUPREME COURT***, the Honourable Supreme Court has deprecated the practice of adjournments sought mechanically and allowed by the Courts/Tribunals. Hon'ble Supreme Court has observed as follows:

"5. Grant of repeated adjournments in routine manner and how it affects ultimately the justice delivery system as such came to be considered by this court in catena of decisions and asking/grant of repeated adjournments have been repeatedly condemned by this court.

5.1 In the case of Shiv Cotex v. Tirgun Auto Plast (P) Ltd. (2011) 9 SCC 678, it is observed and held in paragraphs 14 to 17 as under:

"14. ... Is the court obliged to give adjournment after adjournment merely because the stakes are high in the dispute? Should the court be a silent spectator and leave control of the case to a party to the case who has decided not to take the case forward?

15. It is sad, but true, that the litigants seek-and the courts grant-adjournments at the drop of the hat. In the cases where the Judges are little proactive and refuse to accede to the requests of unnecessary adjournments, the litigants deploy all sorts of methods in protracting the litigation. It is not surprising that civil disputes drag on and on. The misplaced sympathy and indulgence by the appellate and revisional courts compound the malady further. The case in hand is a case of such misplaced sympathy. It is high time that courts become sensitive to delays in justice delivery system and realise that adjournments do dent the efficacy of the judicial process and if this menace is not controlled adequately, the litigant public may lose faith in the system sooner than later. The courts, particularly trial courts, must ensure that on every date of hearing, effective progress takes place in the suit.

16. No litigant has a right to abuse the procedure provided in CPC. Adjournments have grown like cancer corroding the entire body of justice delivery system.

17.... A party to the suit is not at liberty to proceed with the trial at its leisure and pleasure and has no right to determine when the evidence would be let in by it or the matter should be heard. The parties to a suit-

whether the plaintiff or the defendant-must cooperate with the court in ensuring the effective work on the date of hearing for which the matter has been fixed. If they don't, they do so at their own peril."

6. It is seen that; the Apex Court has thereafter gone on to hold as under:

" 5.5 Today the judiciary and the justice delivery system is facing acute problem of delay which ultimately affects the right of the litigant to access to justice and the speedy trial. Arrears are mounting because of such delay and dilatory tactics and asking repeated adjournments by the advocates and mechanically and in routine manner granted by the courts. It cannot be disputed that due to delay in access to justice and not getting the timely justice it may shaken the trust and confidence of the litigants in the justice delivery system. Many a times, the task of adjournments is used to kill Justice. Repeated adjournments break the back of the litigants. The courts are enjoying upon to perform their duties with the object of strengthening the confidence of common man in the institution entrusted with the administration of the justice. Any effort which weakens the system and shake the faith of the common man in the justice dispensation has to be discouraged. Therefore the courts shall not grant the adjournments in routine manner and mechanically and shall not be a party to cause for delay in dispensing the justice. The courts have to be diligence and take timely action in order to usher in efficient justice dispensation system and maintain faith in rule of law...."

7. We also note that the Rule 20 of the CESTAT Procedure Rules reproduced supra, provides that if 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 can set aside the dismissal and restore the appeal.

8. We notice that there is no request on record for the appeal to be decided on merits ex-parte based on the grounds preferred in the appeal in the absence of the appellant's presence or representation through its counsel. We are of the view that if we were to decide the matter on merits, without having the benefit of hearing the appellant and upon such hearing if we were to hold against the appellant, then, having no locus to

review our own judgement since we would be rendered functus officio, we would thus be not only depriving the appellant of a chance to be heard, but also would be relegating the appellant to seek appropriate remedy in a higher judicial forum, if at all the appellant has justifiable reasons for repeated non representation and also lack of representation today. Considering the statutory position and the views expressed by the Hon'ble Apex Court in the judgement supra that adjournments can't be given for the mere asking without any serious reason, backed with proof, for the non-appearance of the Appellant or his authorised representative on the dates of public hearing coupled with the fact that even after the notice has been sent and delivered to the appellant, the appellant has chosen not to arrange for representation or appear in person, we find that no purpose would be served in continuing to keep this appeal pending. We are therefore of the considered view that the appellant is not interested in pursuing the appeal that has been preferred and that the appeal is thus liable to be dismissed for default.

9. In view of our discussions above, we dismiss the appeal for default as per Rule 20 of CESTAT (Procedure) Rules, 1982. However, liberty is granted to the appellant to file for restoration of the appeal showing sufficient justifications and reasons while seeking such restoration.

The appeal is dismissed for default.

(Order dictated and pronounced in open court)

**(AJAYAN T.V.)**  
**MEMBER (JUDICIAL)**

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**(M. AJIT KUMAR)**  
**MEMBER (TECHNICAL)**