

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

REGIONAL BENCH – COURT NO.1

Service Tax Appeal Nos. 40324 of 2016

(Arising out of Order in Appeal No.357/2015 (STA-II) dated 30.11.2015 passed by the
Commissioner of Service Tax, (Appeals -II), Chennai)

M/s. InTrans Cargo (Freight Services) Pvt Ltd., ...Appellant

2-C, "Ramaniyam", No.216 Peters Road,
Royapettah, Chennai – 600 014.

Vs.

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

Chennai South Commissionerate
MHU Complex, No.692, Anna Salai,
Nandanam, Chennai-600 035.

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 No.41137/2025

DATE OF HEARING/DECISION:13.10.2025

Per Mr. AJAYAN T.V.

This appeal is filed by the appellant against Order in Appeal No. 357/2014 (STA-II) dated 30.11.2015 passed by the Commissioner of Service Tax (Appeals-II), Chennai (impugned order).

2. When the matter came up for hearing on 13.10.2025, 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 2016 and has come up for hearing on four earlier occasions on 02.04.2025, 04.06.2025, 18.07.2025 and 02.09.2025. On 04.06.2025, finding that the appellant was not represented, while adjourning the matter to 18.07.2025, Registry was directed to issue notice by RPAD. Records reflect that notice was returned with remarks 'no such person'. On 18.07.2025, Registry was directed to

issue notice through the department and the matter was adjourned to 02.09.2025. On 02.09.2025, finding that the appellant was not represented, the matter was adjourned to 13.10.2025 as Ld. AR sought more time to serve notice through the concerned Commissionerate. On 13.10.2025, the Ld. AR has stated that the Range authorities have attempted to serve the notice on the appellant. However, no one was available on the premises. Hence, they have affixed the notice on the office wall and drawn a mahazar. Ld. AR submitted the communication dated 22.09.2025 from the Chennai South Commissionerate in this regard.

3. 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.

4. We find that the matter has been adjourned a number of times without any representation as stated supra. Attempt to serve the notice on the appellant has also failed. It is seen that the notice was sent by RPAD to the address provided by the appellant in the appeal filed, has been returned undelivered with an endorsement 'no such person'. There is no record of the appellant having intimated any change of address to the Registry of this Tribunal. Hence no purpose would serve keeping the appeal pending.

5. 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.

6. 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."

7. 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...."

8.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.

9.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 the appellant is not to be found at the address given and also considering that even after exhausting the prescribed methods of service, the appellant's whereabouts are not known, 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.

10. 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)

(M. AJIT KUMAR)
MEMBER (TECHNICAL)