

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH COURT NO.IV

CUSTOMS APPEAL NO.50376/2018

[Arising out of Order-in-Appeal No. CC(A)/CUS/Prev/248-249/2014 dated 31.03.2014 passed by the Commissioner of Customs(Appeals) New Delhi]

ASHUTOSH GOENKA

Partner M/s. Orion International

Appellant

Vs.

**ADDITIONAL COMMISSIONER OF CUSTOMS
(PREVENTIVE) NEW DELHI**

Respondent

WITH

CUSTOMS APPEAL NO. 50377/2018

[Arising out of Order-in-Appeal No. CC(A)/CUS/Prev/248-249/2014 dated 31.03.2014 passed by the Commissioner of Customs(Appeals) New Delhi]

M/s. ORION INTERNATIONAL

Appellant

Vs.

**ADDITIONAL COMMISSIONER OF CUSTOMS
(PREVENTIVE) NEW DELHI**

Respondent

Appearance:

Present for the Appellant : None

Present for the Respondent : Shri M R Dhania, Authorised Representative

CORAM:

HON'BLE DR. RACHNA GUPTA, MEMBER(JUDICIAL)

HON'BLE Ms.HEMAMBIKA R. PRIYA, MEMBER(TECHNICAL)

DATE OF HEARING/ DECISION: August 01, 2023

FINAL ORDER No. 51042-51043 /2023

DR RACHNA GUPTA

None is present for the appellants in either of these appeals.

The appeals are pending consideration since February 2018. The appellants had not appeared on most of the occasions or had

requested adjournment in the case the representative/authorised counsel was present.

2. On 28.5.2018, when no one marked appearance for the appellants, the appeals along with Condonation of Delay applications (vide Final Order No. 52050-52051/2018) were dismissed for want of prosecution.

3. Later, the appeals were restored vide Miscellaneous Order bearing No. 50691-50692/2018 dated 26.09.2018.

4. On 17.01.2019 when the application seeking Condonation of Delay was listed for hearing, it was observed that the appeal was filed after the delay of 1225 days. Certain clarifications and proper applications were directed to be filed. On 06.02.2019 vide Miscellaneous order No. 50135-50136/2019, said application was allowed subject to cost. Subsequent to the compliance as directed, the appeal was allowed to be registered and to be listed in due course vide order dated 1.4.2019.

5. Since then, the appellant had not appeared on most of the occasions or had requested adjournment if the representative/authorised counsel had appeared. After continuous absence that on 06.09.2022, department was required to make an attempt to serve the appellant and to verify whether the appellant has availed the benefit under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. The appellant, however, continued the practice of either not appearing or of seeking adjournment on one pretext or other.

6. Today, learned Departmental Representative has placed on record a copy of communication dated November, 2022 in response to the Department's e-mail dated 26.10.2022 which is reproduced as under:

"Please refer to your e-mail dated 26.10.2022 on above subject.

2. In this regard, it is informed that the business premises of M/s Orion International and residential addresses of the partners of the firm were visited by the officers of this Commissionerate to serve the order sheet dated 06.09.2022, however, premises were found locked at the time of visit and on enquiring from nearby area, whereabouts of the firm and its partners could not be gathered. On the registered address of M/s Orion International i.e. BM- 2, Dilkush Indl. Area, G.T.K Road, Delhi, contact number of Sh. Ashutosh Goenka (Mob. No. 9811126116) was found pasted. On contacting on this number, Sh. Ashutosh Goenka provided another address i.e. C-4/4A, 2nd Floor, Model Town-3, Delhi-110009 for delivery of the order sheet, however, when the premises was visited, it was also found locked. The order sheet has been shared via whats app on mobile number 9811126116. Further, it is informed that there is no mention of any scheme in the subject SCN bearing C.No. VIII/Cus.Prev/ICD/105/09/1745 dated 10.02.2011 as well as in OIO No. 40/SMA/ADC/2012 dated 30.10.2012.

3. This is for information and further necessary action at your end."

7. In view of the entire above observed facts highlighting the conduct of the appellant about perusing the appeal and in view of the fact that appeal is pending adjudication since year 2018 it is held that the appellant had been highly negligent while pursuing the same. Further opportunity is held unwarranted in such

circumstances. Appeal accordingly, is ordered to be dismissed for want of prosecution on the part of appellants. Resultantly, both the appeals are dismissed for default.

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R PRIYA)
MEMBER (TECHNICAL)

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