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

## PRINCIPAL BENCH –COURT NO. 4

## Service Tax Miscellaneous Application No. 52549 of 2024
## AND
## Service Tax Appeal No. 55825 of 2023 - SM

(Arising out of Order-in-Appeal No. 253(AK)ST/JDR/2023 dated 30.08.2023 passed by the Commissioner (Appeals), Central Excise & CGST, Jodhpur)

**M/s N.K. Traders** **Appellant**
4-F-22, Vigyan Nagar, Kota-324005

**Versus**

**Commissioner of Central Excise, Udaipur** **Respondent**
**New Delhi**
NCR Building, 142-B, Sector-11, Udaipur-313002

**<u>Appearance:</u>**

Present for the Appellant: None

Present for the Respondent: Shri Rohit Issar, Authorized Representative

**<u>CORAM:</u>**

**Hon'ble Dr. Rachna Gupta, Member (Judicial)**

**Date of Hearing/Decision : 03/01/2025**

**Final Order No. 50018/2025**

**Rachna Gupta:**

None is present for the appellant. The file is perused. Order dated 07.06.2024 is observed to read as follows:

> "2. In view of the exceptional circumstances, the request of Ms. Sudershan Bhatia is conceded and the matter is adjourned to October 09, 2024. It be further noted that in view of the long adjournment sought, further request for adjournment of the matter shall not be considered. The registry is also directed to send a copy of this order at appellant's address, as available on record as well as that indicated on the death certificate of the appellant."

2. Despite the said warning of the above quoted order one more adjournment was granted, to the appellant Smt. Sudershan Bhatia. It is also observed that the notice of today's hearing has also been

delivered on the applicant as well as on the authorized counsel of the applicant. Despite the above mentioned warnings and the service of notice, the applicant has opted to not to appear today to pursue the miscellaneous application filed by the applicant. The conduct is such that the appellant is not diligent in pursuing the matter. Further adjournment in the circumstances is, therefore, held to be unwarranted.

3. The said miscellaneous application is also perused. The applicant has reiterated the fact about passing away of the proprietor of the appellant as was earlier brought to the notice of this Tribunal vide their letter dated 31.05.2024. However, the applicant Smt. Sudershan Bhatia has prayed for pursuing the present appeal with the request for adding/substituting the grounds of appeal in the manner as mentioned in the miscellaneous application. The following prayer has been made by the applicant:

> "1. Abate the proceedings in the matter.
>
> 2. Quash the demand of Rs. 16,77,939/- along with interest.
>
> 3. Quash the penalty of Rs. 16,79,939/- imposed under Section 11(1)(C), 77 (2) & 78 of FA, 1994.
>
> 4. Pass such other orders and further orders as may be deemed just and necessary in the facts and circumstances of the case.

4. As the applicant is not present and the further adjournment is already held unwarranted for the miscellaneous application is disposed off for want of prosecution and also for the reason that the legal representation/agent successor etc. Though may seek the proceeding to continue but is not supposed to make good deficiency, if any, noticed post death of the appellant. However, also keeping in view that proprietor of the appellant had already

passed away. In terms of Rule 22 of the CESTAT Procedure Rules, the appeal shall abate though the legal representative of deceased proprietor had moved the impugned application seeking pursuance of the appeal but in view of above observed conduct of the said applicant further opportunity of representative is declined to the applicant Smt. Sudershan Bhatia. In the totality of facts, the present appeal is ordered to be abated. It being one of the request in the said miscellaneous application. The application stands partly allowed and the appeal stands abated. Be consigned to records.

(Dictated & pronounced in open Court)

**(Dr. Rachna Gupta)**
**Member (Judicial)**

RM