

ST/ROA/50117/2017 in and
Service Tax Appeal No.58238/2013

IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:20/02/2017

ST/ROA/50117/2017 in and
Service Tax Appeal No.58238/2013

M/s.Jethanand Arjundas and Sons Bablal Chhaya

Appellants

Vs.

CCE, Indore

Respondent

Appearance:

Rep. by Shri Vipul Kandhar, CA for the appellants.

Rep. by Ms. Neha Garg, DR for the respondent.

Coram: Hon'ble Shri S. K. Mohanty, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Misc. Order No. 50106/2017

Per B. Ravichandran:

This application is filed to recall the Final Order No.56238/2016 dated 30.12.2016 of the Tribunal. The appeal of the appellants was dismissed for non-appearance/non-prosecution of the appeal, without going into the merits of the case.

2. Ld. Counsel appearing for the appellants submitted that they have sent a request through fax to the Registry informing their inability to attend the case on the listed date. However, due to certain mis-communication or other reasons, the same was not brought to the notice of the Bench. Ld. Counsel submitted that this is the first hearing listed before the Bench and they have a very strong case on merits and the decisions of the Tribunal are in their favour in similar set of facts decided

ST/ROA/50117/2017 in and
Service Tax Appeal No.58238/2013

earlier. Accordingly, in the interest of justice, Id. Counsel pleaded for restoration of the appeal for a decision on merits.

3. Ld. AR leaves it to the bench for a decision.

4. We have heard both the sides and perused the appeal records.

5. We note that the case is listed for the first time on 30.12.2016 and was dismissed for non-appearance of the appellant or his counsel. Considering that the appellants were unable to present on that day, due to unavoidable reasons and also considering the fact that the appeal has to be disposed of on merit, in the interest of justice, we recall the Final Order dated 30.12.2016 and restore the appeal to its original number. Accepting the plea of the Id. Counsel for the appellant, we direct the Registry to list the case for final decision on 27.03.2017. The application is accordingly allowed.

[order dictated and pronounced in the open court]

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

Ckp.