

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

PRINCIPAL BENCH, COURT NO. IV

Customs Appeal No. 52541 of 2018

[Arising out of the Order-in-Appeal No. CC (A) CUS/D-II/ICD/TKD/Import/853/2017 dated 18/09/2017 passed by The Commissioner of Customs (Appeals), New Delhi.]

M/s Mita India (P) Ltd.

Plot No. 21/2, Site – II,
Loni Road, Mohan Nagar,
Ghaziabad (U.P.).

Appellant

VERSUS

The Commissioner of Customs

New Customs House, Near IGI Airport,
New Delhi – 110 037.

Respondent

Appearance

None – for the appellant.

Shri Rakesh Kumar, Authorized Representative (DR) – for the Respondent.

**CORAM: HON'BLE SHRI C.L. MAHAR, MEMBER (TECHNICAL)
HON'BLE MRS. RACHNA GUPTA, MEMBER (JUDICIAL)**

FINAL ORDER NO. 51126/2019

DATE OF HEARING : 20/08/2019.
DATE OF DECISION: 20/08/2019.

RACHNA GUPTA :-

None is present for the appellant. It is submitted by the Department that appellant is not interested to pursue the matter. Perusal of file shows that impugned appeal was filed after a delay of 205 days. However, the delay was condoned by the miscellaneous order of this Tribunal bearing No. 50790 of 2018 dated 26 October 2018. It is also perused that after the condonation of delay was allowed, matter has come up for final

hearing several number of times i.e. on 26 November, 2018, 11 December 2018, 8 January 2019, 18 January 2019, 15 February 2019, 12 March 2019, 2 April 2019, 30 April 2019, 3 July, 2019 and 20 August, 2019. But there have been the adjournment requests on behalf of the appellant. Though, on some dates, matter could not reached hearing but we do not find any effort on part of the appellant to save the time taken on said account.

2. Absence of promptness in the given circumstances coupled with absence of appellant today before this Tribunal is sufficient for us to hold that the appellant is not interested in pursuing the appeal. We therefore order for the appeal to be dismissed for want of prosecution. We draw our support from the decision of Apex Court in **Ram Siromani Tripathi & Ors vs. State of U.P. & Ors in Civil Appeal No.9142-9144 of 2010 with Civil Appeal No. 6156 of 2012 dated 07 February, 2019**. It was held therein as:

“Mr. R.K. Ojha, learned counsel appears on behalf of the counsel for the appellants and submits that the learned counsel for the appellants is not present in the Court today. It is stated that he is out of station. This is no ground to seek adjournment. We therefore reject the request for adjournment. We have asked the learned counsel to argue the matter. He submits that he does not know anything about the case.

In these circumstances, we dismiss the appeals for non-prosecution.

We make it clear that since we have not found it to be a good ground for adjournment, under no circumstances, application for restoration shall be entertained.”

3. Accordingly, the appeal is hereby dismissed.

(Dictated and pronounced in open court.)

(C.L. Mahar)
Member (Technical)

(Rachna Gupta)
Member (Judicial)