CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Bench – Single Member Bench
Court – I

Appeal No: E/22328/2015
(Arising out of Order in Original No. HYD-EXCUS-002-COM-08-15-16, Dated 31.07.2015 passed by CCCE&ST, Hyderabad-II)

Kumar Roadlines ... Appellant (s)

Vs.

CCCE&ST, Hyderabad-II ... Respondent(s)

Appearance
Mrs. K. Sandhya Reddy, Advocate for the Appellant.
Smt. B.V. Siva Naga Kumari, Commissioner/AR for the Respondent.

Coram:

Hon'ble Mr. M.V. Ravindran, Member(Judicial)

Date of Hearing : 05.02.2018
Date of decision: 05.02.2018

FINAL ORDER No.A/30426/2018

[Order per: Mr. M.V. Ravindran]

1. This appeal is directed against Order-in-Original No. HYD-EXCUS-002-COM-08-15-16, Dated 31.07.2015.

2. After hearing both sides, I find that this appeal abates as the adjudicating authority has imposed penalty under section 26 on Kumar Roadlines which is the sole Proprietary ship firm. Ld. Counsel brings to my notice that Shri Kumarpal Kanji Momaya, sole Proprietor of Kumar Roadlines demised and he produces a copy of the death certificate issued by Kalyan Dombiwali Municipal Corporation. On perusal of the

said death certificate, it is seen that Shri Kumarpal Kanji Momaya has expired on 9th September, 2006 and the impugned order is passed on 31.07.2015. In my view penalties imposed on Kumar Roadlines, appellants herein, will not survive the scrutiny of law as it is settled that when the applicant Shri Kumarpal Kanji Momaya, sole proprietor of the firm Kumar Roadlines dies, the proceedings initiated gets abated by the Tribunal and recently followed by Division Bench in the case of New Sharda Industries [2017(347) E.L.T 180 (Tri.-Bang.)]. Respectfully following the same, I hold that the impugned order is unsustainable and liable to be set aside and I do so.

3. Impugned order is set aside and appeal is allowed.

(Operative portion of the order pronounced in open court on conclusion of hearing)

(M.V. RAVINDRAN)
MEMBER(JUDICIAL)

VRG