

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.396 of 2012

(Arising out of Order-in-Appeal No.129/BOL/2012 dated 16.05.2012 passed by Commissioner of Central Excise (Appeals), Kolkata-IV.)

M/s. Mondal Construction

(B-4/22, Milan Pally, Kururiaanga, Vill & Post-Amrai, Dist-Burdwan, Durgapur-713203, Wes Bengal.)

...Appellant

VERSUS

Commissioner of CGST & CX, Kolkata-IV

.....Respondent

(GST Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.)

APPEARANCE

NONE for the Appellant (s)

Shri S.S.Chattopadhyay, Authorized Representative for the Revenue

**CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)**

FINAL ORDER NO. 76206/2024

DATE OF HEARING : 25.06.2024

DATE OF DECISION : 25.06.2024

Per : RAJEEV TANDON :

The present appeal has been filed in the year 2012. It is observed from the case records that after the stay petition has been heard and orders issued on 05.03.2014, the matter has come up for final hearing on the following dates.:-

Sl.No.	Date	Remarks
1.	31.07.2023	
2.	26.09.2023	None appeared. No prayer for adjournment.
3.	30.11.2023	Adjournment request received from the appellant
4.	22.01.2024	
5.	23.01.2024	No appeared. No prayer for adjournment.

6.	26.02.2024	None appeared. Request for adjournment received.
7.	15.04.2024	Adjourned to 11.06.2024 in view of request made by the appellant.
8.	11.06.2024	Adjournment request received. One last chance allowed and order made clear that no further adjournment would be granted.
9.	25.06.2024	

2. As can be noted from the above, more than ample opportunities have been given to the appellant to represent the matter before this Tribunal and present their case. However, it is observed that on six occasions in the past the matter has been adjourned in view of the specific request from the appellant. We note from records that the appellant vide application dated NIL, filed for the date of hearing dated 26.02.2024 had mentioned that the *"The Ld.Advocate on record of the appellant at present is suffering from different ailments for which further medication with complete bed rest is very much essential....."*. It was under the circumstances that the matter had been adjourned to the next date as indicated in the table above. It may be pointed out that the said application further mentioned that under these circumstances *"the appellant is unable to appoint another lawyer within the short period of time to conduct his case before the Ld.Tribunal."*

3. It was under such a scenario and in the interest of justice that the matter was adjourned affording all possible opportunity to the appellant for taking appropriate action.

4. It is further noted from the records, in respect of the hearings dated 11.06.2024, that vide application dated 09.06.2024 signed on 10.06.2024, the appellant has reiterated the same old excuse that under the circumstances, *"the appellant is unable to appoint another lawyer within this short period of time to conduct his case before the Ld.Tribunal"*. In view thereof, while allowing another two weeks' time for the matter to be presented it had been made abundantly clear that no further adjournment would be granted.

5. From the aforesaid enunciation and documentation of the case history as aforesaid, it is evidently clear that the appellant is absolutely non-serious in attending to his case and perhaps has no inclination for the matter to be represented and argued before this Tribunal. It appears that they only want to hold on to the appeal for reasons best known to them. As the instant appeal is more than a decade old, several opportunities for hearing of the matter have already been allowed in the past 11 (eleven) months and the fact that ample time since 26.02.2024 has also been given when they first came out with the plea that the Ld.Advocate was sick and time be granted to engage a lawyer, we find no justification in holding on to this appeal any further. The aforesaid history of the case gives an impression that the appellant is not interested in pursuing the matter. The appeal cannot be allowed to remain in a perpetual state of adjourned abeyance. We find that the appellant is using the argument as a ruse for holding on to the matter. This court cannot therefore fall a victim to such unreasonable designs of the appellant. We thus find no option, but to dismiss the present appeal for reasons of non-prosecution of the matter.

6. The appeal is therefore dismissed.

(Dictated and pronounced in the open Court.)

Sd/

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/

(RAJEEV TANDON)
MEMBER (TECHNICAL)