CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH

Excise Appeal No. 86860 of 2016

(Arising out of Order-in-Original No. PUN-EXCUS-003-COM-0013 & 0014-15-16 dated 03.03.2016 passed by the Commissioner of Central Excise, Pune-III.)

M/s. P N Gadgil & Company ....Appellant
(Now known as P.N. Gadgil Jewellers Pvt. Ltd.)
5th Floor, PNG House,
694 Narayan Peth,
Laxmi Road, Pune – 411 030

VERSUS

Commissioner of Central Excise, Pune-III ....Respondent
ICE House, 41-A Sasson Road,
Opposite Wadia College,
Pune – 411 001

APPERANCE:

None for the Appellant

Mohd. Shamshad Alam, Additional Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86717 / 2021

Date of Hearing: 18.08.2021
Date of Decision: 18.08.2021

PER: DR. SUVENDU KUMAR PATI

Appellant is absent. No one represented it. Learned Authorised Representative is present.

2. Perused the order-sheet and case record. It is observed that matter was listed on 07.07.2021 for final hearing today i.e. on 18.08.2021. An exhaustive order has been passed on 07.07.2021, wherein it has been reflected that the appeal was adjourned for twenty two times earlier after grant of application for early hearing at the instance of appellant. Table annexed to the said order indicates that on eight occasions appeal could not be heard as it had not reached its turn and Revenue had sought three adjournments while one adjournment was granted to both the sides to analyse the issue. Rest of adjournments including the last three consecutive adjournments on 20.01.2020, 22.03.2021 and 07.07.2021 were granted at the instance of the appellant. Today an email request is made by the appellant to adjourn the matter for long so as to enable it to participate in personal hearing after the Covid pandemic, as physical examination of the ceased jewellery is required for the purpose of determination of the issue. None moved the petition. Such an application contradicts Rule 23 of the CESTAT (Procedure) Rules, 1982 and production of exhibits can only be made after seeking express permission to produce additional evidence or when Court directs for such production. Further, granting more than three consecutive adjournments would be violative of Section 35(C)(1A) proviso, besides the fact that grant of early hearing would defeat the purpose if hearing is lingered even beyond three years prescribed for disposal of a normal appeal.

3. We are of the considered view that appeal is required to be dismissed for default in appearance and for non-prosecution in terms of Rule 20 of the CESTAT (Procedure) Rules, 1982 and therefore we order for its dismissal.

(Pronounced in the open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

Prasad