CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH

Excise Appeal No. 86047 of 2017
Cross Objection No. 91106 of 2017

(Arising out of Order-in-Original No. 40-42/NVK/COMMR RGD/2016-17 dated 03.01.2017 passed by Commissioner of Central Excise, Raigad)

M/s. Rhodia Specialty Chemicals India P Ltd **Appellant**
Phoenix House, A wing, 4th floor,
462, Senapati Bapat Marg,
Lower Parel (W), Mumbai 400 013.

Vs.

Commissioner of Central Excise, Raigad **Respondent**
Plot No.1, Sector 17, Khandeshwar,
Navi Mumbai 410 206.

Appearance:

Shri Chirag Shetty, Advocate, for the Appellant
Shri 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/87002/2021**

Date of Hearing: 21.10.2021
Date of Decision: 21.10.2021

PER: SANJIV SRIVASTAVA

This appeal is directed against Order-in-Original No. 40-42/NVK/COMMR RGD/2016-17 dated 03.01.2017 passed by Commissioner of Central Excise, Raigad.

2.1 When the matter was called for hearing today, learned counsel seeks adjournment.

2.2 We find that at the time of hearing on 05.07.2021, as per our order, it has been noted that the matter had been adjourned nearly 18 times and thereafter three more adjournments were allowed. On 14.07.2021, learned counsel again sought adjournment and undertook that the matter would be argued next time. After seeking his convenience and that of his senior, the matter was adjourned to 07.09.2021. On 07.09.2021 the matter was again adjourned on the request of counsel and posted for today.

2.3 Section 129B(1A) of the Customs Act, 1962 reads as follows:-

"The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal."

2.4 Rule 20 of the CESTAT (Procedure) Rules, 1982 reads as follows:-

"Rule 20. Action on appeal for appellant's default. — Where on the day fixed for the hearing of the appeal or on any other day to which such hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Tribunal may, in its discretion, either dismiss the appeal for default or hear and decide it on merits :

Provided that where an appeal has been dismissed for default and the appellant appears afterwards and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called on for hearing, the Tribunal shall make an order setting aside the dismissal and restore the appeal."

3.1 In view of the above provisions, we do not intend to allow any further adjournment at the cost of respect of the orders of the Tribunal. Thus this appeal is liable for dismissal on the ground of non-prosecution of the appeal in terms of Rule 20 of the CESTAT (Procedure) Rules, 1982.

3.2 Accordingly the appeal is dismissed under Rule 20 of the CESTAT (Procedure) Rules, 1982 for non-prosecution.

3.3 The cross objections filed by the Revenue are disposed of accordingly.

(Order pronounced in the open court)

(Sanjiv Srivastava)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

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