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

Service Tax Appeal No. 86544 of 2015

(Arising out of Order-in-Original No. 17/ST/2014/C dated 15.07.2014 passed by the Commissioner of Central Excise, Customs & Service Tax, Nagpur)

M/s. Anupam Rai Infrastructure **Appellant**
!05, Kanchan, 1st floor, Sundarlal Rai Marg,
New Ramdaspeth, Nagpur 440 010.

Vs.

Commissioner of Central Excise & ST, Nagpur **Respondent**
Telangkhedi Road, Civil Lines,
Post Box No.81, Nagpur 440 001.

Appearance:

None for the Appellant
Shri Dilip Shinde, Assistant 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/85065/2022**

Date of Hearing: 02.02.2022
Date of Decision: 02.02.2022

PER: BENCH

This appeal is directed against Order-in-Original No. 17/ST/2014/C dated 15.07.2014 of the Commissioner of Central Excise, Customs & Service Tax, Nagpur.

2.1 When the matter was called for hearing today, none appeared on behalf of the appellant. It is observed that in the past, this matter was listed for hearing on several occasions, i.e. 20.05.2019, 19.06.2019, 01.08.2019, 03.10.2019, 18.11.2019, 19.01.2020, 25.02.2020, 11.08.2021, 08.09.2021, 13.10.2021, and 24.11.2021. Except on 25.02.2020, 11.08.2021 and 13.10.2021, on all other occasions either nobody appeared or a request for adjournment was made.

2.2 Section 35C(1A) of the Central Excise Act, 1944 reads as follows:-

"The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to 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."

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, 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.

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

(Order pronounced in the open court)

(Sanjiv Srivastava)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

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