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

Service Tax Miscellaneous Application (COD) No. 86630 of 2019
(On behalf of Appellant)
Service Tax Appeal No. 88257 of 2019

(Arising out of Order-in-Appeal No. IM/CGST-A1/MUM/18-19 dated 13.07.2018 passed by the Commissioner of CGST & Central Excise, Raigad)

M/s. New India Engineering Works **Appellant**
803, B Wing, Neel Vardhaman CHS Ltd.,
Plot No.46, Sector 5, New Panvel (E) 410 206,

Vs.

Commissioner of Central Excise, Raigad **Respondent**
4th Floor, Kendriya Utpad Shulk Bhawan,
Plot – 01, Sector 17, Khandeshwar,
Raigad 410 206.

Appearance:

None for the Appellant
Shri Onil Shivadikar, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

Date of Hearing: 03.03.2022
Date of Decision: 03.03.2022

FINAL ORDER NO. A/85205/2022

PER: SANJIV SRIVASTAVA

This miscellaneous application for condonation of delay in filing the appeal has been filed by the applicant.

2.1 None appeared for the applicant despite notice. Heard the learned AR for the Revenue.

3.1 It is observed from the record that in the past this application for condonation of delay has been listed on many occasions, i.e. 05.02.2020, 17.02.2021 and 20.01.2022. On 05.02.2020 there was a written request for adjournment by the applicant and on other occasions, none appeared for them. It seems that the applicant is not interested in prosecuting their application.

3.2 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."

3.3 In view of the above provisions, this miscellaneous application is liable for dismissal on the ground of non-prosecution in terms of Rule 20 of the CESTAT (Procedure) Rules, 1982.

3.4 Accordingly the miscellaneous application for condonation of delay in filing the appeal is dismissed under Rule 20 of the CESTAT (Procedure) Rules, 1982 for non-prosecution. Consequently, the appeal becomes not maintainable and is accordingly dismissed.

(Order pronounced in the open court)

(Sanjiv Srivastava)
Member (Technical)

(P. Dinesha)
Member (Judicial)

tvu