

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

Customs Appeal No. 992 of 2010

(Arising out of Order-in-Appeal No. 275(GR-IIA)/2010/JNCH/IMP-258 dated 30.09.2009 passed by the Commissioner of Customs (Appeals), JNCH, Sheva)

M/s. Indian Commercial Co. Pvt. Ltd.

Appellant

Oriental House, 5th floor, J. Tata Road,
Churchgate, Mumbai 400 020.

Vs.

Commissioner of Customs (I), Nhava Sheva

Respondent

Jawaharlal Nehru Custom House, Post Uran,
Sheva, Dist. Raigad 400 707.

Appearance:

None for the Appellant

Shri Manoj Das, Assistant Commissioner, Authorised Representative
for the Respondent

CORAM:

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

Date of Hearing: 09.06.2022

Date of Decision: 09.06.2022

FINAL ORDER NO. A/85546/2022

PER: SANJIV SRIVASTAVA

This appeal is directed against Order-in-Appeal No. 275(GR-IIA)/2010/JNCH/IMP-258 dated 30.09.2009 passed by the Commissioner of Customs (Appeals), JNCH, Sheva.

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. 23.01.2020, 25.02.2020, 05.03.2021, 13.09.2021, 17.11.2021, 08.02.2022 and 19.04.2022. Out of these dates, only on two occasions, the appellant had caused appearance. From this act of the appellant, it appears that they are not serious in prosecuting their appeal.

2.2 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."

2.3 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)