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

Service Tax Appeal No. 87204 of 2016

(Arising out of Order-in-Original No. 01 to 04/ST-VII/RK/2016 dated 22.06.2016 passed by Commissioner of Service Tax, Mumbai-VII)

M/s. Godavari Constructions **Appellant**
Plot No.20, Sector 4, Phase III,
Nerul, Navi Mumbai 400 706.

Vs.

Commissioner of Service Tax-VII, Mumbai **Respondent**
16th floor, Satra Plaza, Palm Beach Road,
Sector 19D, Vashi, Navi Mumbai 400 705.

Appearance:

None for the Appellant
Shri Prabhakar Sharma, Superintendent, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

Date of Hearing: 27.06.2022
Date of Decision: 27.06.2022

FINAL ORDER NO. A/85598/2022

PER: SANJIV SRIVASTAVA

This appeal is directed against Order-in-Original No. 01 to 04/ST-VII/RK/2016 dated 22.06.2016 passed by Commissioner of Service Tax, Mumbai-VII.

2.1 When the matter was called for hearing today, none appeared on behalf of the appellant. It is observed from the record that on 21.03.2022 also, none appeared for the appellant despite notice. On 01.02.2022, learned counsel was granted liberty to cause inspection of file in Registry to update and complete the same and synchronize with his file. It is not coming out from the record whether he has done so. Therefore it appears that the appellant is not serious in prosecuting their appeal. Hence we are not inclined to keep this appeal pending and take up the same for disposal.

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."

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 default in appearance 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)

(Ajay Sharma)
Member (Judicial)

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