

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

Service Tax Appeal No. 85020 of 2017

(Arising out of Order-in-Original No. MUM-SVTAX-006-COM-25-16-17 dated 30.08.2016 passed by the Commissioner of Service Tax-VI, Mumbai)

M/s. Tops Security Ltd.

Appellant

Topsgrup Country Headquarters,
5, Royal Palms Estate, Aarey Milk Colony,
Goregaon (E), Mumbai 400 065.

Vs.

Commissioner of Service Tax-VI, Mumbai

Respondent

1st floor, Mahavir Jain Vidyalaya,
C.D. Barfiwala Marg, Andheri (W),
Mumbai 400 058.

WITH

Service Tax Appeal No. 86876 of 2017

(Arising out of Order-in-Original No. MUM-SVTAX-006-COM-01-17-18 dated 29.04.2017 passed by the Commissioner of Service Tax-VI, Mumbai)

M/s. Tops Security Ltd.

Appellant

Topsgrup Country Headquarters,
5, Royal Palms Estate, Aarey Milk Colony,
Goregaon (E), Mumbai 400 065.

Vs.

Commissioner of Service Tax-VI, Mumbai

Respondent

1st floor, Mahavir Jain Vidyalaya,
C.D. Barfiwala Marg, Andheri (W),
Mumbai 400 058.

Appearance:

None for the Appellant

Shri Sunil Kumar, Assistant Commissioner, Authorised Representative
for the Respondent Revenue

CORAM:

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

Date of Hearing: 02.08.2022

Date of Decision: 02.08.2022

FINAL ORDER NO. A/85678-85679/2022

When the matter was called for hearing today, none
appeared for the appellant.

2.1 On 18.04.2022 the Bench had stated as follows:-

"As directed by the Bench, notice of next date of hearing is reported to have been served on the appellant by affixing the same at their premises.

2. Learned Authorized Representative also informs that, by order dated 19th February 2021, the National Company Law Tribunal (NCLT), Mumbai has appointed Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016.

3. In view of the above, Registry is directed to intimate the Resolution Professional that the next date of hearing is scheduled for 29th June 2022."

2.3 Again on 29.06.2022 the Bench had made the following order:-

"None for the Appellant. Learned Authorised Representative is present.

2. Perused the order passed on 18.04.2022 by the Bench directing the Registry to send notice to the Resolution Professional. It seems that the same has not been complied with.

3. Notice be sent to Mr. Rajendra Karnal Bhuta, RP at 1207, Yogi Paradise, Yogi Nagar, Borivali (W), Mumbai – 400 092 for his appearance as Resolution Professional on dated 02.08.2022 to pursue the appeal further."

3.1 It is evident from the record that, as per the direction of the Bench on 29.06.2022, the Registry had on 30.06.2022 sent notice to Resolution Professional. Till date I do not find any application being filed in the matter for continuation of the proceedings by the successor-in-interest in terms of Rule 22 of the CESTAT (Procedure) Rules, 1982.

3.2 Rule 22 of the CESTAT (Procedure) Rules, 1982 states as follows:-

"Rule 22. Continuance of proceedings after death or adjudication as an insolvent of a party to the appeal or

application. — *Where in any proceedings the appellant or applicant or a respondent dies or is adjudicated as an insolvent or in the case of a company, is being wound up, the appeal or application shall abate, unless an application is made for continuance of such proceedings by or against the successor-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the appellant or applicant or respondent, as the case may be :*

Provided *that every such application shall be made within a period of sixty days of the occurrence of the event :*

Provided *further that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period so specified, allow it to be presented within such further period as it may deem fit."*

4.1 Sufficient time has been allowed for the successor-in-interest to file an application for continuation of proceedings in this case. In absence of any such application by the operation of Rule 22 of the CESTAT (Procedure) Rules, these appeals abate. Held accordingly.

(Order pronounced in the open court)

(Sanjiv Srivastava)
Member (Technical)

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