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

Service Tax Appeal No. 87280 of 2017

(Arising out of Order-in-Original No. PUN-SVTAX-000-COM-070-071-16-17 dated 29.05.2017 passed by the Commissioner of Service Tax, Pune)

M/s. Hi-Tech Engineering Corporation (I) Pvt. Ltd. **Appellant**
Plot No. G-17, MIDC, Baramati,
Baramati 413 102, Dist. Pune

Vs.

Commissioner of Service Tax, Pune **Respondent**
F-Wing, 3rd Floor, ICE house,
41/A, Sassoon Road, Pune 411 001.

AND

Service Tax Appeal No. 87281 of 2017

(Arising out of Order-in-Original No. PUN-SVTAX-000-COM-070-071-16-17 dated 29.05.2017 passed by the Commissioner of Service Tax, Pune)

M/s. Hi-Tech Engineering Corporation (I) Pvt. Ltd. **Appellant**
Plot No. G-17, MIDC, Baramati,
Baramati 413 102, Dist. Pune

Vs.

Commissioner of Service Tax, Pune **Respondent**
F-Wing, 3rd Floor, ICE house,
41/A, Sassoon Road, Pune 411 001.

Appearance:

None for the Appellant
Shri Nitin Tagade, Joint Commissioner, Authorised Representative for the Respondent

CORAM:

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

Date of Hearing: 14.07.2022
Date of Decision: 14.07.2022

FINAL ORDER NO. A/85685-85686/2022

PER: SANJIV SRIVASTAVA

On going through the record, we find that on 5th March 2020, the Bench had passed the following order:-

"Learned A.R. has placed on record the order passed by the NCLT dated 10/10/2018 thereby the NCLT has appointed the Resolution Professional as Liquidator of the Corporate Debtor as per the provisions of Section 34 of the Code. Since the liquidator has been appointed by the NCLT, notice may be issued to the liquidator. The Matter is adjourned to 23/04/2020."

1.2 Thereafter on 3rd December 2021, the Bench had passed the following order:-

"None appeared for the appellant.

2. Though resolution professional appointed in the matter, he has not filed application under Rule 21. The matters are adjourned to 01/02/2022 for further order."

1.3 On 1st February 2022, again similar order was passed as follows:-

"Hi-tech has been liquidated and as per our order on 30.01.2021 no action has bench taken by official liquidator or Revenue by filing the substitution application as per Rule 22. Ideally appeals should have been abated. However, as matter of last chance to official liquidator and also Revenue, we adjourn the matter to 16.02.2022. In case application as required under Rule 22 are not filed by that day and placed before this Bench. The appeals shall stand abated."

1.4 Vide letter received in Registry on 8th June 2022, the counsel while withdrawing his Vakalatnama, has stated as follows:-

"1. That the Appellant/Respondent company i.e. M/s Hi-Tech Engineering Corp. (1) P. Ltd. has been liquidated/dissolved vide orders of Hon'ble NCLT.

2. That vide Order dated 16.02.2022 of Hon'ble Bench, taking cognizance of liquidation proceedings by Hon'ble NCLT, directions to issue notice for resolution professional Shri Laxman Digambar Pawar to appear in the matters have been given.

3. Further, vide letter dated 19.04.2022 of Learned Deputy Registrar, CESTAT, Mumbai, received through email dated 19.04.2022, details of communication address with resolution professional Shri Laxman Digambar Pawar was requested and in compliance we have intimated the resolution professional Shri Laxman Digambar Pawar vide letter dated 20.04.2022 with regard to directions of Hon'ble CESTAT, copy of same marked to Learned Deputy Registrar sent through email dated 20.04.2022 and speed post consignment number EM767082221IN on 21.04.2022.

4. That at this juncture the matters being towards insolvency of the Appellant/Respondent company i.e. M/s Hi-Tech Engineering Corp. (1) P. Ltd. and as directions to resolution professional Shri Laxman Digambar Pawar to make appearance have been complied at our end, there being no locus-standi of our vakalatnama as company authorizing us is no more existing, we are constrained to withdraw the Vakalatnama in the above matter, which may kindly be allowed."

2.1 We find from the above that sufficient opportunities have been given to the Resolution Professional to file his application for continuation of these proceedings under Rule 22 of CESTAT (Procedure) Rules, 1982.

2.2 In absence of any such application by operation of Rule 22 of CESTAT (Procedure) Rules, 1982, the appeals filed by the appellant get abated themselves. This goes on in view of the decision of Hon'ble Supreme Court in the case of Ghanashyam Mishra & Sons [2021 (9) SCC 657] wherein it has been held by Hon'ble Supreme Court that once the resolution application has been approved by the concerned adjudicating authority i.e.

NCLT, that application becomes binding on all including Central and State Governments to whom these dues are paid.

3.1 Accordingly these appeals are disposed of as abated in terms of Rule 22 of CESTAT (Procedure) Rules, 1982.

(Order pronounced in the open court)

(Sanjiv Srivastava)
Member (Technical)

(Ajay Sharma)
Member (Judicial)

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