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

Excise Appeal No. 1542 of 2012

(Arising out of Order-in-Appeal No. BC/205/M-III/2012-13 dated 31.07.2012 passed by the Commissioner of Central Excise (Appeals), Mumbai-III)

M/s. EMCO Ltd. **Appellant**
Plot No. F-5, Road No. 28,
Wagle Estate, Thane 400 604.

Vs.

Commissioner of Central Excise, Mumbai-III **Respondent**
3rd & 4th Floor, Vardaan Centre, MIDC,
Wagle Industrial Estate,
Thane (W), Mumbai 400 604.

Appearance:

None for the Appellant
Shri Dhirendra Kumar, Joint 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: 11.11.2022
Date of Decision: 11.11.2022

FINAL ORDER NO. A/86067/2022

PER: SANJIV SRIVASTAVA

In the present case counsel has withdrawn his Vakalatnama on 17.05.2022. While withdrawing the Vakalatnama, he informed as follows:-

"This has a reference to Appeal no. E/1542/2012 filed by M/s. EMCO Ltd. The personal hearing of the said Appeal is scheduled on 18.05.2022 before Hon'ble Member (Judicial). Mr. S. K. Mohanty and Hon'ble Member (Technical), Mr. P. Anjani Kumar.

This is to bring on record of this Hon'ble Tribunal that Appellant Company has gone into liquidation and the Hon'ble NCLT, Mumbai has appointed an official liquidator. (Copy of order date 22.07.2019 and 27.04.2022 is enclosed).

Following details of the official liquidator may please be taken on record for further correspondence directly for this Tribunal:

Mr. Sundaresh Bhat (Official Liquidator)
M/s. EMCO Limited.
BDO Restructuring Advisory LLP,
Level 9, the Ruby, North West Wing, Senapati Bapat Road,
Dadar West, Mumbai - 400028
Email ID: LQEMCO@bdo.in and sundareshbhat@bdo.in
Contact person: Mr. Siddharth Mob. No 99700 13234"

2.1 Rule 22 of CESTAT (Procedure) Rules, 1982 provides 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."*

2.2 As the appellant company has gone into liquidation and Official Liquidator has been appointed as successor-in-interest. A notice was issued to him for causing appearance vide letter dated 07.06.2022. However, till today neither the Official Liquidator has caused appearance nor filed an application for substituting successor-in-interest in the matter as provided by Rule 22 of CESTAT (Procedure) Rules.

3.1 Appeal is thus abated in terms of Rule 22 of CESTAT (Procedure) Rules, 1982.

(Order pronounced in the open court)

(Sanjiv Srivastava)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

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