

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

REGIONAL BENCH

Service Tax Appeal No. 86152 of 2016

(Arising out of Order-in-Appeal No.PUN-SVTAX-000-APP-271-15-16 dated 15.3.2016 passed by the Commissioner of Service Tax (Appeals), Pune, F-Wing, 3rd Floor, ICE House, Pune,411001)

B.D.Mistry

Unit No.21, 1st Floor, Continental Industrial Estate,
Opposite Pragati Complex Kothurd, Pune-411029

.....Appellant

VERSUS

Commissioner of Service Tax, Pune

ICE House House,41A Session Road, Pune-411001

.....Respondent

APPEARANCE:

Mr.Kiran Chavan, Advocate for the Appellant

Mr. Prabhakar Sharma, Authorised Representative for the Respondent

CORAM:

**HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

FINAL ORDER NO. 86081/2023

Date of Hearing:07.07.2023

Date of Decision:07.07.2023

PER: Dr.Suvendu Kumar Pati

Learned Counsel files the death certificate of the present appellant proprietor indicating his death on 5.10.2019.

2. He also submits that service tax liability, in compliance to Voluntary Compliance Encouragement Scheme,2013 (VCES-1), has been discharged but service tax in terms of VCES,2013 could not be paid in time for which penalty could not be waived off.

3. Learned Authorised Representative agreed to the submission that the amount agreed upon under the scheme has been paid but paid belatedly.

4. Appellant was sole proprietor of company and on his death, no penalty could be realized as the appeal having abated due to the death of appellant. Learned Counsel for the appellant informs that the appellant's firm is dissolved upon the death of appellant and not carried forward by the successor-in-interest.

5. In view of the fact that, we abate the appeal and absolve the appellant proprietor firm from its liability in respect of penalty. The appeal is abated.

(Dictated & pronounced in open court)

(Dr.Suwendu Kumar Pati)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)