CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI
REGIONAL BENCH, COURT NO. 5

EXCISE APPEAL NO. 90120 OF 2014

(Arising out of Order-in-Appeal No. PD/754/THII/2014 dated 11.09.2014 passed by the Commissioner of Central Excise & Service Tax (Appeals-IV), Mumbai-I.)

COMMISSIONER OF CENTRAL EXCISE-THANE-II
Central Excise & Service Tax Zone, Utpad Shulk Bhavan, ……......Appellant
Plot No. Commissioner-24, Secstor-E, BKC, Bandra (E),
Mumbai-400051.

VERSUS

M/s. MEC ENGINEERS ....Respondent
7/8, Vardhaman Industrial Estate,
Gowripada, Vasai (E), Dist:Thane-401 202.

APPERANCE:
Shri Anant Khandait, Advocate for the Appellant
Shri P.K. Acharya, Supdt.,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. 85948/2024

Date of Hearing: 19/09/2024
Date of Decision: 19/09/2024

PER: BENCH

Both sides are present.

2. Death certificate of the proprietor of the Appellant firm was produced by learned counsel for the Appellant on 13.09.2024 and it was substituted with attested photocopy for the purpose of record. In response to of our oral query regarding continuance of business of the Proprietorship firm, Widow of Respondent Proprietor Mrs. Rajni Arora submitted in writing that business was closed after the death of her husband.

3. Learned counsel for the Respondent also produced judgment of Hon’ble Supreme Court passed in the case of Sabina Abraham V/s. Collector of Central Excise And Customs reported in 2015 (322) E.L.T. 372(S.C.)[29-07-2015] and makes a submission that duty and other sums are not payable by the dead

person's legal heirs, as has been observed by the Hon'ble Supreme Court in the same judgment.

4. Learned counsel for the Appellant Department is present. He took note of the legal position and left it to the decision of the court to pass appropriate order concerning this appeal.

5. Having regard to the submission and having regard to the fact that by the time the proprietor was dead, no amount was due on him as he succeeded in the appeal before the authorities below, we consider it a fit case to abate the appeal filed against the Respondent deceased proprietor by the department as no amount could be recoverable from the legal heirs, in view of the findings of the Hon'ble Supreme Court in Shabina Abraham, cited above.

Learned counsel for the Respondent further submits that appeal is otherwise also not maintainable on monetary limit, as fixed in under the litigation policy of the Government of India.

6. We, therefore, abate the appeal under Rule 22 of the CESTAT Procedure Rules, 1982. No recovery proceedings in any manner whatsoever can be initiated against the legal heirs in respect of the order assailed herein.

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

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