

(2005) 11 CAL CK 0038
In the Calcutta High Court
Case No : Writ Petition No. 2011 of 2005

Kevin Infotech Pvt. Ltd.

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 18-11-2005

Acts Referred:

Citation : (2006) 1 CHN 530 : (2006) 202 ELT 751 : (2008) 10 STR 514

Hon'ble Judges : Pranab Kumar Chattopadhyay, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Pranab Kumar Chattopadhyay, J.—The petitioner is aggrieved by, and dissatisfied with, the order dated 4th October, 2005 passed by Customs, Excise and Service Tax, Appellate Tribunal, Kolkata, East Regional Bench in Appeal Nos. CDM 93 of 2004 and CDM 94 of 2004 as the said learned Tribunal in the aforesaid order specifically directed that the learned Counsel representing the appellant should file vakalatnama in order to appear and argue the case even though the Advocate-on-Record of the said appellant has already filed vakalatnama.

2. I fail to understand why apart from the Advocate-on-Record of the respective party any other learned Counsel should file vakalatnama in order to argue a case on behalf of the client. The Advocate-on-Record representing a litigant has every right and authority to engage a Counsel to argue a matter before the Tribunal and any Counsel being instructed by the Advocate-on-Record is also entitled to argue a matter on behalf of his client before the said Tribunal.

3. A Counsel is supposed to argue a matter on behalf of his client pursuant to the instruction of the Advocate-on-Record and the Advocate-on-Record is required to file vakalatnama as a proof of his authority to represent the client. However, the Advocate-on-Record has the authority under the law to engage a Counsel for representing the client before any forum and for this purpose no separate vakalatnama is required to be executed by the client in favour of the Counsel

also. Any member of the legal profession is authorised to appear before any forum to represent his client pursuant to the instruction of the Advocate-on-Record in whose favour vakalatnama has been duly executed by the concerned party. In my opinion, the learned Members of the Tribunal failed to consider the issue in an appropriate manner as the said learned Members of the Tribunal could not appreciate the distinctly separate role of the Advocate-on-Record and the Counsel representing a party in a matter before any forum.

4. For the aforementioned reasons, the impugned order passed by the learned Tribunal on 4th October, 2005 cannot be sustained and the same is accordingly quashed. The Tribunal is directed to allow the Counsel to appear and argue on behalf of any party subject to filing of vakalatnama by the learned Advocate-on-Record instructing the said Counsel notwithstanding the fact that the said Counsel is not designated as a Senior Advocate under the Advocates Act.

5. This writ petition thus stands allowed. There will be no order as to costs.

6. All parties are to act on a xerox copy of this dictated order on the usual undertaking.