(2024) 05 CESTAT CK 0032

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Service Tax Appeal No.70012 Of 2021

M/S Shasha Veer Baba Construction Pvt. Ltd	APPELLANT
Vs	
Commissioner, CGST & Central Excise, Lucknow	RESPONDENT

Date of Decision : 27-05-2024

Acts Referred:
Customs, Excise And Service Tax Appellate Tribunal (Procedure) Rules, 1982 — Rule 20

Citation : (2024) 05 CESTAT CK 0032

Hon'ble Judges : Sanjiv Srivastava, Member (T)

Bench : Single Bench

Advocate : Santosh Kumar

Final Decision : Dismissed

Judgement

Sanjiv Srivastava, Member (T)

1. When the matter was last listed on 15.05.2024 taking note of the written communication from Shri Dushyant Kumar, Consultant for withdrawal of the vakalatnama it was observed as under:-

“We have received a written communication from Shri Dushyant Kumar, Consultant mentioning as under:-

1. That the undersigned, Dushyant Kumar, Advocate, is the counsel for the above Appellant.

2. That the Appellant is neither receiving any instructions from the undersigned nor submitting the relevant documents such as works orders / agreements for want of which it is not possible to properly plead the case and defend the Appellant.

3. That the undersigned being an Advocate has moral duties towards to Hon'ble Court and should not waste precious time of the Hon'ble Court.

4. That in view of the above, the undersigned is constrained to withdraw the

Vakalatnama/ Authorization in the present case.

2. Request for withdrawal of vakalatnama/authorization is taken on record and Registry is directed to take note of this. Matter is adjourned. List in due course.”

2. Notice was issued by speed post to the appellant for hearing today. However, appellant has chosen not to cause appearance either himself or through any of his Authorized Representative/ Consultant/ Advocate.

3. It appears that the appellant is no longer interested in pursuing this matter. Rule 20 of CESTAT (Procedure) Rules, 1982 provided as follows:-

“RULE 20. Action on appeal for appellant’s default. — Where on the day fixed for the hearing of the appeal or on any other day to which such hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Tribunal may, in its discretion, either dismiss the appeal for default or hear and decide it on merits :

Provided that where an appeal has been dismissed for default and the appellant appears afterwards and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called on for hearing, the Tribunal shall make an order setting aside the dismissal and restore the appeal.”

4. Accordingly, appeal is dismissed for non-prosecution as per Rule 20 of CESTAT (Procedure) Rules, 1982.

