

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1433 of 2019

In
Miscellaneous Appeal No.724 of 2009

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Commissioner of Central Excise, Patna (Now Commissioner of Central GST and Central Excise, Patna-II, 4th Floor, C.T.T.C. Building, Sanchar Parisar, Buddh Marg, Patna-800001)

... .. Petitioner

Versus

Sri Rajinder Singh, Managing Director, M/s. Mansi Steels (P) Ltd., R/o C/408, Shanti Vihar Apartment, Frazer Road, Patna.

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal, Adv.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

3 19-04-2019 This Miscellaneous Application is filed for restoration of Miscellaneous Appeal No. 724 of 2009 which got dismissed for failure of the appellant to comply of the order dated 27.11.2013 of the Division Bench which was peremptory in nature.

The records transpire that four Miscellaneous Appeals arising from common order and raising similar issues were being heard analogous bearing M.A. Nos. 704, 722, 723 and 724 of 2009 of which while M.A. No. 704 of 2009 survives, rest of the Miscellaneous Appeals have been dismissed on similar grounds and it is only when the Miscellaneous Appeal which



survived i.e. M.A No. 704 of 2009 came up for consideration that the dismissal of other Appeals came to surface and when steps have been taken by learned Counsel appearing for the Department of Excise & Customs to seek restoration of the dismissed Appeals. This is how present restoration application is filed and when the records transpire that the original records of the Miscellaneous Appeal has since been destroyed as per mandatory provisions underlying Patna High Court Rules which requires destruction of the records of Miscellaneous Appeals, after three years on its disposal.

Mr. S.D. Sanjay, learned Addl. Solicitor General appearing for the Department along with Mr. Alok Kumar Agarwal informs that there has not been any deliberate laches on the part of the appellant in pursuing the Appeal, rather the change in office of the learned Counsel representing the Department may have caused situation.

We have heard Mr. Sanjay, learned Counsel for the appellant on the restoration application and have perused the records. It is that because the defects pointed out by the office were not removed within the peremptory period that the Appeal got dismissed and no steps were taken for restoration of the appeal.



Having heard Mr. S.D. Sanjay, learned Counsel for the appellant in the restoration application and having perused the reasons assigned, we are persuaded to allow this application and restore M.A No. 724 of 2009 to its original file with further direction to learned Counsel for the appellant to file two copies of the memo of appeal in M.A. No. 724 of 2009 by 03rd of May, 2019.

M.A No. 724 of 2009 is restored to its original file.

This restoration application is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Archana/
Surendra/-

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