NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TAXC No. 9 of 2019

- M/s Vandana Global Ltd. Through Its Authorized Signatory - Shri Sanjay Sharma, Age 48 Years, S/o Shri Bhagirathi Singh, Having Its Office At Phase II, Siltara Industrial Growth Centre, Siltara Raipur (CG)

---- Appellant

Versus

- Commissioner, Customs Central Excise And Service Tax, Raipur, Office Of Commissioner Of Customs & Central Excise, Central Excise Building Dhamtari Road, Tikrapara Raipur Chhattisgarh.

---- Respondent

For Appellant	:	Shri Sharad Mishra, Advocate
For Respondent	:	Shri Maneesh Sharma, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, CJ

Hon'ble Shri Parth Prateem Sahu, J

Order on Board

Per Ajay Kumar Tripathi, CJ

13/03/2019

1. Heard learned counsel for the appellant and learned counsel for the revenue.

2. The Customs, Excise & Service Tax Appellate Tribunal, New Delhi (for short 'the Tribunal') has passed the order dated 7.8.2018 refusing to restore the appeal which was dismissed for non-prosecution, as is the submission made before this Court.

3. The facts so stated are not entirely true. The appeal in question was earlier heard by the Tribunal and an order dated 21.8.2017 came to be passed wherein also it is recorded that there was lack of cooperation in adjudication of the matter when the case used to be listed.

4. Order dated 21.8.2017 passed by the Tribunal indicates that it has not been dismissed for default but decided by a speaking order, may be not an extended order.

5. Infact, the application was filed on behalf of the appellant for restoration of the appeal on the ground that when the matter was called-out on 21.8.2017, the counsel was not present before the Bench.

6. Since the previous order was not an order passed for non-prosecution but the appeal was decided on merits, the Tribunal has rightly refused to restore the appeal and to that extent the order dated 17.8.2018 cannot be said to be an erroneous view or order to be passed.

7. Submission of learned counsel for the appellant is that he has also assailed the order dated 21.8.2017 and seeking relief in the present tax case. Since it is a separate order altogether, two reliefs cannot be prayed for in one tax case.

8. The appeal being meritless is liable to be and is hereby dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-