

OD-3

CEXA/19/2009
IA No.GA/2/2024

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (Central Excise)
ORIGINAL SIDE

COMMISSIONER OF CENTRAL
EXCISE, KOLKATA-II

-Versus-

M/S. EAST INDIA
PHARMACEUTICALS WORKS LTD.

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
And
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date :12th April, 2024

Appearance:
Mr. K. K. Maiti, Adv.
...for the appellant.

Mr. Arnab Chakraborty, Adv.
...for the respondent.

1. Heard Sri K.K. Maiti, learned standing counsel for the appellant and Sri Arnab Chakraborty, learned counsel for the respondent.
2. By order dated 9.2.2024, the above-noted Central Excise Appeal No.19 of 2009 pending in this Court for about 15 years was dismissed on the ground of non-serving the paper book upon the respondent and non-compliance of the orders of this Court, in presence of Sri Uday Shankar

Bhattacharjee, learned senior standing counsel (indirect taxes) who appeared for the appellant.

3. On earlier occasion, the aforesaid counsel Sri U.S. Bhattacharjee, Advocate had appeared for the appellant/applicant. Now, the present application being GA/2/2024 dated 7.3.2024 has been filed by the appellant through another counsel Sri Kausik Kanti Maiti, Advocate. The aforesaid application runs in 11 paragraphs. Paragraphs 1 to 7 have been sworn on the basis of record; while paragraphs 8 to 11 have been stated to be submission of the deponent namely, Sri Sandeep Kumar Dikshit, Superintendent of Central Excise, Bolpur Commissionerate. In paragraphs 1 to 7 it has been stated by the aforesaid deponent on the basis of record that the senior departmental counsel had wrongly appeared in the matter. However, copy of any record in support of his averment has not been filed along with the affidavit.
4. There is no denial in the aforesaid paragraphs 1 to 7 that the earlier orders of this Court have not been complied with or that copy of paper book has not been served upon the respondent. The allegation is that the counsel had stated that the paper book has not been submitted till date, whereas from bare perusal of the order itself, it is evident that it was not the statement of the counsel. Thus, the affidavit filed by the aforesaid deponent is false and misleading. That apart, the present application has neither been filed through the counsel who appeared on the earlier occasion nor the said counsel is present in Court.

5. In view of the aforesaid, the present application being GA/2/2024 is hereby rejected.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

As.