

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD**

REGIONAL BENCH - COURT No. II

Service Tax Appeal No.71218 of 2018

(Arising out of Order-in-Appeal No.33-ST/Appeal/Audit-Lko/2018 dated 15/02/2018 passed by Commissioner (Appeals) Central Excise & CGST, Lucknow)

M/s Alcons Infratech,

....Appellant

(29/101, Gandhar Infratech,
Jankipuram, Lucknow-226012)

VERSUS

Commissioner of Central Excise &

Service Tax, Lucknow

....Respondent

(7A Ashok Marg, Lucknow)

APPEARANCE:

None, for the Appellant

Shri Santosh Kumar, Authorised Representative for the Respondent

**CORAM: HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)**

FINAL ORDER NO.70490/2025

DATE OF HEARING : 14 July, 2025
DATE OF DECISION : 14 July, 2025

ANGAD PRASAD:

In the present case, appellant is absent on call. It is also observed that this appeal has been listed for hearing on 26.11.2018, 25.11.2019, 20.02.2020, 28.08.2023, 13.09.2023, 27.09.2023, 09.11.2023, 10.01.2024, 26.02.2024, 24.04.2024, 21.05.2024, 06.08.2024, 14.10.2024, 08.11.2024, 13.11.2024, 03.12.2024, 07.01.2025, 10.01.2025, 10.03.2025, 23.04.2025 and for today. The Counsel for the appellant either in person or through the letter has only sought taking adjournments in the matter. The text of the order sheets on the previous three occasions is reproduced below:

**"DATE OF HEARING : 10/01/2025
ORDER SHEET**

When the matter was called learned Advocate Shri Vineet Kumar Singh appeared for the appellant and sought some time to file his Vakalatnama. Accordingly, matter is adjourned. List on 10.03.2025."

"DATE OF HEARING : 10/03/2025

ORDER SHEET

On the last occasion on 10.01.2025, learned Counsel Shri Vineet Kumar Singh appeared and sought time to file his Vakalatnama. However, instead of filing fresh Vakalatnama, he entered his name in the old Vakalatnama already available in the file in form of Shri Jameel Ahmad Advocate, which is not a proper procedure to do so.

2. Learned Counsel may file a fresh Vakalatnama and as last opportunity, we list the appeal on 23/04/2025. Since there have been several adjournments, it is made clear that the appeal shall be decided on the next date of hearing."

"DATE OF HEARING: 23.04.2025

ORDER SHEET

When the matter was called none appeared on behalf of the Appellant nor any adjournment request has been received from the Appellant. In the interest of justice matter is adjourned. Registry is directed to send a copy of today's daily order to the Appellant's address as well as to their Advocate's address by Speed Post and also by email and place the Dak delivery report of the same on record. List in due course."

2.0 Section 35C (1A) of the Central Excise Act, 1944 provides as follows-

"35C. Orders of Appellate Tribunal.-

(1A) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal."

RULE 20 of CESTAT Procedure Rules, 1982 provide as follows:-

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.

3.0 Hon'ble Supreme Court in the case of M/s Ishwar Lal Mali Rathod [Order dated September 20, 2021 in Special Leave Petition (Civil) Nos.14117-14118 of 2021] condemning the practice of adjournments sought mechanically and allowed by the Courts/Tribunal's.

4.0 In view of the above, we do not find any justification for adjourning the matter beyond three times which is the maximum number statutorily provided.

5. The Appeal is dismissed for non-prosecution in terms of Rule 20 of CESTAT Procedure Rules, 1982.

(Dictated and pronounced in open court)

**(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)**

**(ANGAD PRASAD)
MEMBER (JUDICIAL)**