Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Excise Appeal No.10247 of 2019

(Arising out of OIA-AHM-EXCUS-001-APP-0130-2018-19 dated 27/12/2018 passed by the Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD)

Bodal Chemicals Ltd **……..Appellant**

Plot No 123,124,Phase-I,
Gidc, Vatva,
Ahmedabad, Gujarat

VERSUS

C.C.E.-Ahmedabad-I **…….Respondent**

C. Ex Bhavan,
Nr Panjrapole & Polytechnic, Ambavadi,
Ahmedabad, Gujarat- 380015

APPEARANCE:

Shri. N.K Tiwari, Consultant appeared for the Appellant
Shri R.P Parekh, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

Final Order No. A/ 12385 /2021

DATE OF HEARING: 23.09.2021
DATE OF DECISION: 23.09.2021

RAMESH NAIR

Shri. N K Tiwari, Learned Consultant appearing on behalf of the appellant submits that by the impugned order of the Learned Commissioner (Appeals) the appeal was rejected on time barred on the ground that appeal before Commissioner (Appeals) was filed even beyond condonable period of 30 days after normal period of 60 days. According to the Commissioner (Appeals) delay is of 31 days. Shri. Tiwari referred to the letter dated 11.12.2018 submitted to the Commissioner (Appeals), he explained that the appeal was filed on 10.09.2018 whereas the 08.09.2018 and 09.09.2018 were holidays being Saturday and Sunday therefore as per Section 10 of General Clauses Act, 1897 since 08.09.2018 and 09.09.2018 were holidays the filing of the appeal on 10.09.2018 is considered as within time and 08..09.2018 and 09.09.2018 shall be excluded from the period of delay in such case the delay is only 29 days.

2. Shri R P Parekh, Learned Superintendent (AR) appearing on behalf of the revenue reiterates the finding of the impugned order.

3. I have carefully considered the submission made by both the sides and perused the records. I find that appeal before the Commissioner (Appeals) was rejected on the ground of time bar for the reason that according to Commissioner (Appeals) delay is of 31 days considering the date of filing of appeal as 10.09.2018. On the perusal of the letter dated 11.12.2018 filed by the appellant before the Commissioner (Appeals), it is clear that out of total period of delay computed by the Commissioner i.e. 31 days 08.09.2018 and 09.09.2018 being Saturday and Sunday needs to be excluded in terms of section 10 of General Clauses Act, 1897. The Commissioner (Appeals) has not considered the letter dated 11.12.2018. In this position, I am of the clear view the delay is only of 29 days which is very much condonable. Hence, the same is condoned. The Learned Commissioner (Appeals) shall decide the appeals on merit without going into the issue of limitation.

Accordingly, impugned order is set aside. Appeal is allowed by way of remand to the Commissioner (Appeals)

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

Geeta