CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH - COURT NO. 3

EXCISE Appeal No. 10417 of 2019-SM

[Arising out of Order-in-Original/Appeal No CCESA-SRT-APPEAL-732-2018-19 dated 16.01.2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I (Appeal)]

Schott Kaisha Pvt. Limited .... **Appellant**
S No. 50/4 Kadaiya Village Post Bhimpore
DAMAN, GUJARAT

VERSUS

Commissioner of Central Excise & ST, Vapi .... **Respondent**
4th Floor...Adharsh Dham Building, Opp. Town Police Station, Vapi-Daman Road, Vapi, Gujarat-396191

APPEARANCE :

Mrs. Pooja Reddy, Advocate for the Appellant
Shri G.Kirupanandan, Supdt (AR) for the Respondent

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

DATE OF HEARING/ DECISION : 17.01.2022

FINAL ORDER NO. A/10029 / 2022

RAMESH NAIR :

This appeal is directed against Order-in-Appeal dated 16.01.2019 whereby the learned Commissioner (Appeals) dismissed the appeal only on the time-bar since the appeal is filed before him within 90days. Learned Commissioner (Appeals) has given finding that the appellant has not satisfied the delay beyond 60 days.

2. Mrs. Pooja Reddy, learned Counsel appearing on behalf appellant submits that there is genuine reason for delay as there were huge documents and verification report which were not given by the Adjudicating Authority. Therefore, the appeal could not be filed within time and delay occurred.

3. Shri G.Kirupanandan, learned Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order. He further submits that the Adjudicating Authority has examined all the documents therefore the plea of the appellant for delay in filing the appeal is not good enough for condoning the delay.

4. I have carefully considered the submissions made by both the sides and perused the record. I find that there is no dispute that appeal is filed before the Commissioner (Appeals) even after expiry of 60 days. The learned Commissioner (Appeals) should have taken a liberal view for condoning the delay as the right of party cannot be taken away from the appellant. Therefore, I condone the delay in filing the appeal before the Commissioner (Appeals). Accordingly, the impugned order is set-aside, the appeal is allowed by way of remand to the Commissioner (Appeals) for passing a reasoned order on merit after providing personal hearing to the appellant.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

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