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

REGIONAL BENCH – COURT NO. 01

Service Tax Appeal No. 12018 of 2016

[Arising Out Of OIA-CCESA-VAD-APP-II-VK-159-174-2016-17 Dated- 28/07/2016 Passed By Commissioner of Central Excise and Service Tax-VADODARA-I(Appeal))

Siddhushubham Infra Developer Pvt Ltd **.....Appellant**
H-6, India Textile Market,
Besides Baadri Tower, Ring Road,
Surat, Gujarat

VERSUS

C.C.E. & S.T.-Surat-I **.....Respondent**
New Building...Opp. Gandhi Baug,
Chowk Bazar,Surat,
Gujarat-395001

WITH

Service Tax Appeal No. 12019 of 2016

[Arising Out Of OIA-CCESA-VAD-APP-II-VK-159-174-2016-17 Dated- 28/07/2016 Passed Commissioner of Central Excise and Service Tax-VADODARA-I(Appeal))

Shri Hriday Narayan Panday **.....Appellant**
Director Of Siddhushubham Infra Developer Pvt Ltd,
H-6, India Textile Market,
Besides Baadri Tower, Ring Road,
Surat, Gujarat

VERSUS

C.C.E. & S.T.-Surat-I **.....Respondent**
New Building...Opp. Gandhi Baug,
Chowk Bazar,Surat,
Gujarat-395001

APPEARANCE:
Shri Vijay N. Nair, Advocate for the Appellant
Shri. Anoop Kumar Mudvel, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA
HON'BLE MEMBER (TECHNICAL), MR. C.L. MAHAR

FINAL ORDER NO. 10774-10775 /2024

DATE OF HEARING:4.04.2024
DATE OF DECISION:04.04.2024

SOMESH ARORA

Heard both sides. Learned Advocate pleads that there was mis calculation and rejection of his appeal by Commissioner (Appeals) as the relevant provision of the Finance Act provides two months as a normal period condonable by another month for appeals before Commissioner (Appeals). He intimates that the date of receipt of final order was on 11 January 2016 and appeal was filed on 11.04.2016. It was specific submission of the learned Advocate that the definition of a month as per Section 2 (35) of the General Causes Act means a calendar month. Since, the term used in the Finance Act, 1994 in Section 85 provides appeal period of two months and condonable by the another month. Therefore, appeal was still within condonable period being 12.04.2016.

2. Learned AR agrees with the Finance Act has a term prescribed in months unlike Central excise which is 60 days plus 30 days.

3. Considered both sides. We find that the General Causes Act prescribe that period of one month is to be reckoned as per calendar month of the Gragorian calendar. Accordingly, in this case, the order was the date 11 January, 2016 and appeal was filed on 11.04.2016. Therefore, it was within the condonable limit of one month as was available to Commissioner (Appeals). Since, the Learned Commissioner has authority to consider condonation up to one month i.e. up to 12.04.2016 before which date appeal was filed, we, therefore direct condonation of delay in this matter to be considered and thereafter the matter to be decided on merits, if condonation

is allowed we rely on matter reported in 2021 (50) G.S.T. L (Bom) in Skoda Auto Volkswagen (I) (P) Ltd. Vs. UOI to support our findings.

4. Appeal is allowed in above terms.

(Dictated and pronounced in the open Court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(C.L. MAHAR)
MEMBER (TECHNICAL)

Prachi