CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70064 of 2020

(Arising out of Order-In-Appeal No. NOI-EXCUS-001-APP-1046-19-20, dated - 22/10/2019 passed by Commissioner (Appeals) CGST & Central Excise, Noida)

M/s Om Electricals **.....Appellant**
(J-38, First Floor, Sector-22
Noida, UP)

VERSUS

Commissioner of Central Goods & Service Tax, Noida **....Respondent**
(4^{th} Floor, C-56/42 Renu Tower,
Sector-62, Noida 201301)

APPEARANCE:
Shri S.K. Mathur, Advocate for the Appellant
Shri A.K. Choudhary, Authorized Representative for the Respondent

CORAM: **HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)**
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.-70249/2024

DATE OF HEARING : 03.05.2024
DATE OF DECISION : 03.05.2024

P. K. CHOUDHARY:

We find that vide the impugned order dated 22.10.2019, the learned Commissioner (Appeals) has not decided the appeal on merits and dismissed the same on the ground of limitation. The Order-In-Original dated 27.03.2018 was received by the appellant on 03.04.2018 and the appeal was required to be filed before the learned Commissioner (Appeals) on or before 03.06.2018 but the appeal was filed only on 29.06.2018.

2. We find that the appeal was filed beyond the statutory period of 60 days but within the condonable period of 30 days. There is a delay of 27 days in filing the appeal before the First Appellate Authority and the learned Commissioner (Appeals) was

not satisfied with the reasons stated for the delay before him and he chose not to condone the delay and dismissed the appeal.

3. In view of the submissions as made by the learned counsel for the Appellant, we condone the delay in filing of the appeal before the First Appellate Authority and find it appropriate to remand the matter to the learned Commissioner (Appeals) to decide the appeal on merits without further going into the aspect of limitation. As the matter is quite old, learned Commissioner (Appeals) should decide the appeal within three months from the date of receipt of this order, following the principles of natural justice. Appellant is also directed to cooperate and not to seek unnecessary adjournment. The appeal filed by the Appellant is allowed by way of remand to the learned Commissioner (Appeals)

(Dictated and pronounced in open court)

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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