

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL**

REGIONAL BENCH : ALLAHABAD

COURT No. I

COD Application No. ST/COD/70038/2018 in

APPEAL No. ST/70033/2018-CU[DB]

M/s Anshu Electrical Works

Appellant

Vs.

Commissioner Central Excise & Service Tax, Lucknow

Respondent

Appearance:

Shri Tanmay Sadh (Proxy Counsel)

for Appellant

Shri Mohd Altaf (Asstt. Commr.) AR

for Respondent

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 18/07/2018

Date of Decision : 18/07/2018

MISC. ORDER NO. **70203 / 2018**

Per: Archana Wadhwa

The prayer in the application is to condone the delay of 57 days in presenting the present appeal. According to the learned advocate appearing for the appellant the impugned order was passed by Commissioner (Appeals) on 21.06.2016 but the same was served upon them on 02.12.2016. As such the last date of filing the appeal was 03.03.2017 whereas the appeal actually stands filed on 28.04.2017 within a delay of 57 days. Learned Advocate attributes the said delay to the advocate to whom paper were given for drafting of appeal, being busy before the Hon'ble High Courts.

2. When the matter came on board, earlier on 24.05.2018, Revenue was directed to find out the actual date of receipt and

communication of the order to the appellant inasmuch as there was a huge difference between the date of the order and date of receipt, as contended by the appellant.

3. Learned DR appearing for the Revenue places on record a communication dated 06.07.2018 by the Superintendent (Appeals), Lucknow clarifying that the impugned order dated 21.06.2016 was dispatched from their office on 25.06.2016 by Speed Post. However, the same was returned undelivered to the office and was subsequently sent to the appellants Jurisdictional Central Excise Officers on 05.09.2016 with a request to serve the same to the concerned party. No further information as to when the same was served upon the appellant by their Jurisdictional Officers, is available.

4. In view of the above, we accept the assessee's stand that the impugned order was received by them on 02.12.2016. As such the delay in filing the appeal from the said dated is around 57 days, which stand attributed to the advocate being busy in his professional activities. Appreciating the above grounds as also the fact that the delay is only of 57 days, we condone the same and accept the appeal on records.

(Dictated and pronounced in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)