

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I**

APPEAL Nos.E/70567,70864/2016-EX[DB]

(Arising out of Order-in-Appeal No.GZB-EXCUS-000-APP-0303 & 0304-15-16 dated 09/02/2016 passed by Commissioner (Appeals), Central Excise & Customs, Meerut-II)

M/s Kiwi Foods India Pvt. Ltd.
(In Appeal No.E/70567/2016)

Shri Rajinder Prasad Dwivedi, Director,
(In Appeal No.E/70864/2016)

Appellants

Vs.

Commissioner, Central Excise, Meerut-II

Respondent

Appearance:

Request for Adjournment
Shri Gyanendra Kumar Tripathi, Asstt. Commer. (AR),

for Appellant
for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 25/09/2018
Date of Decision : 25/09/2018

FINAL ORDER NO.72309-72310/2018

Per: Anil G. Shakkarwar,

After rejecting the request for adjournment, we proceeded to decide the appeal. After hearing both the sides, we note that Learned Commissioner (Appeals) has rejected the appeal before him stating that the appeal was filed beyond normal period of 60 days without any application for condonation of delay.

2. We have perused the record and noted that Learned Commissioner (Appeals) has recorded the date of receipt of Order of appeal before him as 30.06.2015 and date of filing the appeal as 02.09.2015. We, therefore, note that after expiry of normal period of 60 days the delay was only for 4 days which was within the period condonable by the Learned Commissioner (Appeals). We condone the said delay and after setting aside the impugned order, remand the matter to Learned Commissioner (Appeals) for decision on merit.

3. In above terms appeal is allowed by way of remand.

(Pronounced & Dictated in Court)

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

Sd/-
(Archana Wadhwa)
Member (Judicial)

Nihal