

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

APPEAL No.ST/70207/2016-CU[DB]

(Arising out of Order-in-Appeal No.228/ST/Alld./2015 dated 23/11/2015 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Allahabad)

M/s Omica Associates

...Appellant

Vs.

Commissioner (Appeals), Central Excise & Service Tax, Allahabad

...Respondent

Appearance:

Shri Rakesh Kumar, (Adv.)

for Appellant

Shri Gyanendra Kumar Tripathi, Assistant Commissioner (AR),

for Respondent

CORAM:

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

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

Date of Hearing/ Decision : 10/12/2018

FINAL ORDER NO.72886 / 2018

Per: Archana Wadhwa

After hearing both the sides, we find that Commissioner (Appeals) has dismissed the appeal on the point of time bar after observing that impugned order was passed on 27.01.2014 whereas the appeal stands filed on 16.09.2014 after a period of 8 months from the date of passing of the impugned order. Inasmuch as there was a delay beyond the

period for which Commissioner (Appeals) is empowered to condone, he rejected the appeal.

2. There is no dispute about the date of passing of the order as also the date of filing the appeal. The appellants have not taken a stand that the impugned order was received by them late. As such, we fully agree with Commissioner (Appeals) that the appeal filed beyond the period of 8 months from the date of passing of the order is barred by limitation. The said issue is no more *res-integra* and stands settled by the Hon'ble Supreme Court decision in the case of M/s Singh Enterprises V/s Commissioner of Central Excise, Jamshedpur reported at 2008 (221) E.L.T. 163 (S.C.) laying down that the Commissioner (Appeals) has no powers to condone the delay of more than 30 days. As such, we find no infirmity in the impugned order of the Commissioner (Appeals).

3. Appeal is accordingly rejected.

(Pronounced & Dictated in Court)

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

Sd/-
(Archana Wadhwa)
Member (Judicial)

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