

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

APPEAL No. ST/70390/2016-CU[DB]

(Arising out of Order-in-Appeal No. 231/ST/ALLD/2015 dated 24/11/2015 passed by Commissioner, Customs, Central Excise & Service Tax (Appeals), Allahabad)

M/s R.S. Plasticizers Pvt. Ltd.

Appellant

Vs.

The Commissioner, Service Tax, Kanpur

Respondent

Appearance:

Shri Amit Awasthi (Advocate)

for Appellant

Shri Mohd Altaf (Assistant Commissioner) AR

for Respondent

CORAM:

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

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

Date of Hearing : 05/12/2018

Date of Decision : 05/12/2018

FINAL ORDER NO 72806 / 2018

Per: Archana Wadhwa

After hearing both the sides duly represented by Shri Amit Awasthi, learned counsel for the Appellant and Shri Mohd Altaf, Assistant Commissioner, learned AR for the Revenue we note that the Commissioner (Appeals) has rejected the appeal on the ground of limitation by observing that the impugned Order-in-Original was served upon one Shri Arunesh Shukla, an employee of the appellant and the appeal stands filed belatedly, even beyond the condonable period of 30 days, as provided under the Act.

2. The grievance of the appellant is that before rejecting the appeal, they were not heard and no opportunity was given to them. It is their contention that Shri Aurnesh Shukla was not their authorized employee to receive the impugned orders and reliance in support of above stands placed upon the Hon'ble Supreme Court's decision in the case of Saral Wire Craft Pvt. Ltd. vs. Commissioner of Customs, Central Excise and Service Tax reported at 2015 (322) E.L.T. 192 (SC).

3. Without commenting upon the fact as to whether the said service on the said employee of the appellant was proper or not and as to whether the provisions of Section 35C of Central Excise Act, prescribing the procedure to be followed for the service of order were followed or not, we note that inasmuch as the appellant was not afforded any opportunity to put forth his views on the said issue, we deem it fit to set aside the impugned order and remand the matter to Commissioner (Appeals) for fresh decision on limitation. Needless to say that the appellant would be afforded an opportunity to contest the issue.

(Pronounced in Court)

Sd/-
Anil G. Shakkwar
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)