CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

E-Hearing
REGIONAL BENCH - COURT NO.I

Excise Appeal No.70523 of 2023

(Arising out of Order-in-Appeal No.MRT/EXCUS/000/APPL-MRT/257-258/2018-19 dated 14.08.2018 passed by Commissioner (Appeals) CGST, Meerut)

M/s Nav Bharat Fertilizers Ltd., ...Appellant
(Plot No.B-11, Beside INSILCO Ltd.,
UPSIDC Industrial Area, Gajraula-244235)

VERSUS

Principal Commissioner of CGST, Ghaziabad ....Respondent
(Camp Office-Room No.232, CGO Complex-I,
Kamla Nehru Nagar, Ghaziabad-201002)

WITH

Excise Appeal No.70524 of 2023

(Arising out of Order-in-Appeal No.MRT/EXCUS/000/APPL-MRT/257-258/2018-19 dated 14.08.2018 passed by Commissioner (Appeals) CGST, Meerut)

M/s Nav Bharat Fertilizers Ltd., ...Appellant
(Plot No.B-11, Beside INSILCO Ltd.,
UPSIDC Industrial Area, Gajraula-244235)

VERSUS

Principal Commissioner of CGST, Ghaziabad ....Respondent
(Camp Office-Room No.232, CGO Complex-I,
Kamla Nehru Nagar, Ghaziabad-201002)

APPEARANCE:

Shri C. S. Srinivas, Advocate for the Appellant
Shri Santosh Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NOs.- 70485-70486/2025

DATE OF HEARING : 03.04.2025
DATE OF PRONOUNCEMENT : 16.07.2025

Since both the appeals have been disposed of by a common Order-in-Appeal hence both the appeals are taken up together for hearing and disposal.

2. Learned Advocate appearing on behalf of the Appellant submitted that the Appellant filed the appeals before the Commissioner (Appeals) within condonable period of limitation. The adjudication order was received on 05.04.2017. In terms of Section 9 of General Clauses Act, 1987, the limitation starts from 06.04.2017. This principle has been clarified by the Hon'ble Supreme Court in the case of Tarun Prasad Chatterjee vs. Dinanath Sharma [2000 (8) SCC 649]. As per Section 35 (1) of the Central Excise Act, 1944, appeal is to be filed within sixty days which ended on 04.06.2017. The Condonation of delay starts on 05.06.2017. The appeals were posted on 03.07.2017. Date of posting the appeal is to be considered as date of filing the appeal. Reliance is placed on the following judgements:-

- Allahabad High Court's decision in the case of Jhabboo Lal Kesara Rolling Mills vs. Union of India [1985 (19) E.L.T. 367].
- Simplex Electronics Vs. Collector of Customs [1989 (42) E.L.T. 451 (Tri.)].

3. Heard both the sides and perused the appeal records.

4. I find that vide the impugned Order-in-Appeal the learned Commissioner (Appeals) CGST, Meerut, has not decided the appeals on merits but rejected the same on the ground of limitation of time for filing the appeals. I find that Order-in-Original dated 29.03.2017 was dispatched on 31.03.2017 and received by the assessee on 05.04.2017. Accordingly, the assessee was required to file the appeals before the first Appellate Authority within the statutory period of 60 days i.e. on or before 05.06.2017. However, both the appeals were filed only on 05.07.2017 i.e. within the condonable period of 30 days. However, the learned Commissioner (Appeals) chose not to condone the delay and has calculated the delay of 31 days by mistake whereas the delay is only of 30 days i.e. within the condonable period. Accordingly, I condone the delay in filing of the appeals before the first Appellate Authority and find it appropriate to remand the matter to the learned Commissioner (Appeals) to decide the appeals on merits. I find support from the decision of the Tribunal in the case of Sasken

Communication Technologies Ltd. vs. CCE & ST(Appeals) [2017(10)-TMI-447-Tri.-Bang].

5. In view of the above discussion, both the appeals filed by the Appellant are allowed by way of remand to the learned Commissioner (Appeals).

(Order pronounced in open court on - **16.07.2025**)

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

LKS