CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.70313 of 2019-Division Bench

(Arising out of Order-in-Appeal No.55/ST/ALLD/2018 dated 05/02/2018 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad)

M/s Jan Kalyan Parishad .....**Appellant**

(80/5, Site No.1, Kidwai Nagar, Kanpur)

VERSUS

Commissioner of Central Excise, Kanpur ....**Respondent**

(Kanpur)

APPEARANCE:

Absent on Call for the Appellant
Shri Santosh Kumar Agarwal, Authorised Representative for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. - 71660 / 2019

Date of Hearing : 30 August, 2019
Date of Decision : 30 August, 2019

PER: ARCHANA WADHWA

Nobody appeared. We have heard learned A.R. appearing for the Revenue and have gone through the impugned order passed by Commissioner (Appeals) vide which he has dismissed the appeal filed before him on the point of time bar. By observing as under:-

"3.2. From the aforesaid statutory provisions, it is clear that any appeal is required to be filed within a period of

two months from the date of receipt of the decision or order of the Adjudicating Authority and the Commissioner of Central Excise (Appeals) has power to condone the delay in filing the appeal for a further period of one month only. However, in this case, the period of two months expired on 06.06.2017, as the impugned order was received by the appellant, on 06.04.2017 and the further period of one month which the Commissioner (Appeals) can condone, expired on 06.07.2017, whereas the appeal has been filed on 13.07.2017."

2. On going through the grounds of appeal, we find that the appellants have advanced the grounds only on merits and have not submitted anything on the issue of limitation. As such, we are of the view that there is no dispute about the date of receipt of the order impugned before Commissioner (Appeals) or the date of filing of the appeal.

3. The issue as to whether the Commissioner (Appeals) has powers to condone beyond the period of thirty days stands settled by the Hon'ble Supreme Court in the case of Singh Enterprises Vs CCE Jamshedpur reported at 2008 (221) E.L.T. 163 (SC). Inasmuch as the delay in the present appeal was more than thirty days, Commissioner (Appeals) has rightly rejected the appeal as time barred. Accordingly the present appeal is rejected by upholding the order of Commissioner (Appeals).

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Lks