CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>ALLAHABAD</u>

REGIONAL BENCH – COURT NO.I

Excise Appeal No.70498 of 2019

(Arising out of Order-in-Appeal No.GZB/EXCUS/000/APPL-MRT/563/2018-19 dated 26/03/2019 passed by Commissioner (Appeals), Central Goods & Service Tax, Meerut)

M/s. MG Construction Equipments **.....Appellant**

(20 Foota Road, Hindon Vihar, Delhi Meerut Road,

Ghaziabad-201003)

VERSUS

Commissioner, Central Goods

& Service Tax, Ghaziabad **.....Respondent**

(C.C.E., Ghaziabad)

WITH

Excise Appeal No.70499 of 2019

(Arising out of Order-in-Appeal No.GZB/EXCUS/000/APPL-MRT/564/2018-19 dated 26/03/2019 passed by Commissioner (Appeal), Central Goods & Service Tax, Meerut)

M/s. Anand Machinery Centre **.....Appellant**

(653, 20 Foota Road, Hindon Vihar, Delhi Meerut Road,

Ghaziabad-201003)

VERSUS

Commissioner, Central Goods

& Service Tax, Ghaziabad **.....Respondent**

(C.C.E., Ghaziabad)

<u>APPEARANCE:</u>

Absent for the Appellant
Shri Gyanendra Kumar Tripathi, Authorized Representative for the Respondent

CORAM :
Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)

FINAL ORDER NO. 71910-71911 / 2019

DATE OF HEARING: 07 November, 2019
DATE OF DECISION : 07 November, 2019

ARCHANA WADHWA

Nobody appeared for the appellant. Accordingly, I have gone through the impugned orders and have heard learned A.R. It is seen that Commissioner (Appeals) rejected the appeal as barred by limitation. Inasmuch as the delay in filing the appeal before him was more than 30 days and he has no powers to condone the delay beyond the period of 30 days. The appellants have shown the date of receipt of impugned order as 16 April, 2018 and filed a COD application for condonation of delay of 30 days. However, on inquiry from the office of the Assistant Commissioner, it was informed that impugned order was served upon the appellant on 13 April, 2018 and as such the delay was more than 30 days. The Assistant Commissioner in his report also produced the acknowledgement establishing the date of service as 13 April, 2018.

2. It is well settled law that Commissioner (Appeals) has no powers to condone the delay beyond the period of 30 days as provided under the Act. The issue is no more *res integra* and stands settled by the Hon'ble Supreme Court decision in the case of Singh Enterprises V/s Commissioner of C. EX., Jamshedpur reported at 2008 (221) E.L.T. 163 (S.C.).

3. However, in the present case from the grounds of appeal, I find that the appellants have made a grievance of fact that the said report of the Assistant Commissioner and the acknowledgement were not supplied to them so as to seek their comments upon the same. This is admittedly in violation of principals of natural justice. As such, I set aside the impugned orders on this very ground alone and remand the matter to Commissioner (Appeals) with directions to supply copy of the report along with acknowledgement and seek the assessee's comments upon the same.

4. Both the appeals are disposed of in above manner.

(Dictated and Pronounced in open Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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