CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Miscellaneous Application No.70095 of 2020
(On behalf of Appellant)
In
Service Tax Appeal No.70233 of 2020

(Arising out of Order-in-Appeal No.15/ST/ALLD/2020 dated 18/03/2020 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad)

M/s Jangipur Sahkari Kraya Vikraya Samiti Ltd. .....**Appellant**
(Jangipur, Ghazipur – 233305 U.P.)

VERSUS

Commissioner of Central Goods & Service Tax, Varanasi (U.P.) ....**Respondent**
(Varanasi)

WITH

Service Tax Miscellaneous Application No.70099 of 2020
(On behalf of Appellant)
In
Service Tax Appeal No.70246 of 2020

(Arising out of Order-in-Appeal No.14/ST/ALLD/2020 dated 18/03/2020 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad)

M/s Ghazipur Zila Sahkari Sangh Ltd. .....**Appellant**

(Station Road, Ghazipur – 233001, U.P.)

VERSUS

Commissioner of Central Goods & Service Tax, Varanasi ....**Respondent**
(Varanasi)

APPEARANCE:

Shri S. K. Vishwakarma, Advocate for the Appellant
Shri Anupam Kumar Tripathi, Authorised Representative for the Respondent

CORAM: HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NOs. - 70183-70184 / 2021

DATE OF HEARING : 02 August, 2021
DATE OF DECISION : 02 August, 2021

ANIL CHOUDHARY:

Heard the parties.

2. The impugned order of the Commissioner (Appeals) states that the appellants had received the impugned order as per the appeal memo before the Commissioner (Appeals) on 29th June 2019 whereas it appeared to the learned Commissioner that the impugned order was received on 21st June 2019. There is a confusion of about Eight days in service of the impugned Order-in-Original on 04th January 2019.

3. The learned counsel submits that from 21st June 2019 (the date of service of the Order-in-Original), their appeal has been filed within the condonable period before the Commissioner (Appeals) as per his powers under Section 85 (3A) of the Act. Learned counsel has also drawn our attention to the affidavit dated 04 June 2020 sworn by the earlier advocate - late Mr. Chandrika Prasad Varma, who was looking after the taxation matter of the appellant. As per the affidavit, said Mr. Chandrika Prasad Varma received the impugned orders through the appellant. Both the appellants (M/s Jangipur Sahkari Kraya Vikraya Samiti Ltd. & M/s Ghazipur Zila Sahkari Sangh Ltd.) are the Cooperative Society in the State of Uttar Pradesh. The affidavit also states, after receiving the copy of the Order-in-Original for drafting of the appeal, the said Counsel was suffering from eye disease and as such the disease prolonged for as he was under treatment initially at local hospital, Ghazipur thereafter at the Sir Sundar Lal Hospital, B.H.U. and thereafter at A.I.I.M.S. New Delhi. Further in the meantime the said counsel also suffered from Mouth Cancer, and thereafter all these resulted in dislocation of working of the office of the said counsel and as such the documents were lying unattended and

were misplaced. Accordingly, there is reasonable cause for the delay in filing the appeal. The appellant had filed the appeal on 25 September, 2019, which is within the Ninety days, that is including condonable period under the power of the Commissioner (Appeals).

4. The Learned D.R. relies on the impugned order.

5. Having considered the rival submission, we find that there is confusion only of Eight days, and further it has been adequately explained by the affidavit of the earlier counsel, who has passed away sometime back. Accordingly, we hold that the appellants have filed the appeal within Ninety days including the delay period which is condonable. We further find that the delay has been adequately explained, that there are no deliberate latches on the part of the appellant in filing the appeal, after some delay. Accordingly, we condone the delay if any which was before the Commissioner (Appeals). Accordingly, we allow both the appeals by way of remand to the Commissioner (Appeals) with the direction to hear the appellants on merits and pass a reasoned order in accordance with law. We further hope that the learned Commissioner (Appeals) shall dispose of the appeal(s) within a period of Three months from the date of receipt of a copy of this order. Further, we direct the appellants to appear before the Commissioner (Appeals), to seek opportunity of hearing in accordance with law. Miscellaneous Applications also get disposed of.

Appeals allowed by way of remand.

(Dictated and pronounced in open court)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(P.ANJANI KUMAR)
Member (Technical)

LKS