CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Customs Appeal No.70278 of 2026

(Arising out of Order-In-Appeal No. NOI-CUSTM-000-137-2025-26, dated - 09.09.2025 passed by Commissioner (Appeals) CGST, Noida)

M/s Krish Exim .....**Appellant**
(194/24 Opposite Hanuman Temple,
Saraswati Kund, Mathura, Uttar Pradesh -281003)

VERSUS

Commissioner, Customs, Noida ....**Respondent**
(Concor Complex, Greater Noida, Uttar Pradesh 201311)

APPEARANCE:

Shri Prakhar Shukla, Advocate for the Appellant
Shri Surendra Ram, Authorized Representative for the Respondent

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

FINAL ORDER NO.-70257/2026

DATE OF HEARING : 05.08.2026
DATE OF DECISION : 05.08.2026

P. K. CHOUDHARY:

The present appeal has been filed by the Appellant assailing the Order-In-Appeal No.NOI-CUSTM-000-137-2025-26, dated - 09.09.2025 passed by Commissioner (Appeals) CGST, Noida.

2. Vide the impugned Order-In-Appeal, learned Commissioner (Appeals) has not decided the appeal on merits but dismissed the same as barred by limitation of time. Hence, the present appeal before the Tribunal.

3. The learned Advocate appearing on behalf of the Appellant submits that the Order-In-Original dated 30.11.2023 was

dispatched only on 16.04.2024 and was received by the Appellant on 29.07.2024 and the mandatory pre-deposit of Rs.15,642/- was deposited on 25.09.2024 and the appeal was dispatched on 26.09.2024 by Speed-Post to the Commissioner of Customs, Concore Complex, Greater Noida, Sector 48, Noida-201311. However, this was not the correct forum and the Appellant came to know about this on a later date and again on 06.03.2025 the Appeal was re-dispatched to the Commissioner of Customs (Appeals), Noida.

4. Learned Counsel further submits that this was not a case of inaction or negligence, but a case wherein the appeal was filed before the wrong forum, thereby contending that the time spent prosecuting a remedy before the wrong forum ought to have been excluded, relying upon Section 14 of the Limitation Act, 1963. In support of his contention reliance was placed on the following decisions: -

i. M.P.Steel Corporation v. Commissioner of Central Excise [2015 (319) ELT 373 (SC)];

ii. Harshit Sanwal v. Commissioner of CGST & Central Excise [2025 (29) Centax 155 (Tri.-Del)]; and

iii. Geltec Pvt. Ltd. v. Commissioner of C. Ex, Cus.&S.T, Bangalore-I [2018 (364) ELT 671 (Tri-Bang).]

5. The learned Authorized Representative has reiterated findings in the impugned order and referred to the decision of the Apex Court in Singh Enterprises [2008 (221) E.L.T. 163 (S.C.)].

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

7. I find that if the limitation is computed from the date of receipt of the order i.e. 29.07.2024 till the date of filing of the appeal before Commissioner of Customs, Concor Complex, Noida on 26.09.2024, the total period comes to 59 days as against 60 days provided. The appeal being filed before the Commissioner (Appeals) on 10.03.2025 (i.e., the correct forum), the period from

26.09.2024 to 10.03.2025 (during which time the appeal was pending before the wrong forum) is liable to be excluded by virtue of the Provision of Section 14 of the Limitation Act, and accordingly, the appeal filed by the Appellant is within time.

8. Keeping in view of the above noted facts of the present case, the Appellant is entitled to the benefit of the exclusion of time in perusing the appeal before the Commissioner of Customs and therefore, the appeal finally filed before the learned Commissioner (Appeals) is not barred by limitation.

9. I, therefore, find it appropriate to set aside the impugned Order-In-Appeal passed by the learned Commissioner, CGST (Appeals) and remand the matter back to the learned Commissioner (Appeals) to decide the appeal on merits without further going into the question of limitation in relation to filing of appeal. Considering that the period of dispute pertains to 2019, the Commissioner (Appeals) is directed to dispose the appeal within a period of 03 months from the date of receipt of this order after affording opportunity of hearing to the Appellant by strictly following the principals of natural justice.

10. The appeal is allowed by way of remand.

(Dictated and pronounced in open court)

Sd/-
(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

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