CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70102 of 2026

(Arising out of Order-in-Appeal No.225/ST/ALLD/2024 dated 03.04.2024 passed by Principal Commissioner (Appeals) Customs, CGST & Central Excise, Allahabad)

M/s C. L. Trading Co., **.....Appellant**
(Proprietor Shri Chote Lal
C-119/255 A, Sumer Sagar, Behind Bagchi Nursing Home,
Dharmshala Bazar, Gorakhpur-273209)

VERSUS

Commissioner, CGST, Customs & Central Excise, Varanasi
....Respondent
(28, M.G. Marg, Civil Lines, Allahabd-211001)

APPEARANCE:

Shri Madhukar Anand, Consultant for the Appellant
Shri Prashant Kumar, Authorized Representative for the Respondent

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

FINAL ORDER NO.-70314/2026

DATE OF HEARING : 20.08.2026
DATE OF DECISION : 20.08.2026

P.K. CHOUDHARY:

The present appeal has been filed by the Appellant assailing the Order-In-Appeal No. 225/ST/ALLD/2024 dated 03.04.2024 passed by Principal Commissioner (Appeals) Customs, CGST & Central Excise, Allahabad. By the impugned order the learned Principal Commissioner (Appeals) has not decided the appeal on merits but rejected the same on the grounds of limitation of time.

2. Briefly stated, the facts of the case are that the Order-In-Original No.46/ST/CGST/GKP-II/2022 dated 29.03.2022 was

dispatched on 29.03.2022. In the impugned Order-In-Appeal the learned Principal Commissioner (Appeals) has observed that against the Order-In-Original dated 29.03.2023 the appeal was filed before him only on 29.11.2023.

3. It is the case of the Appellant that the Order-In-Original dated 29.03.2023 was never received by him and it was only on 25.09.2023 that he received a call from the Department for recovery of the demand which was confirmed by the impugned Order-In-Original. Thereafter, the Appellant visited the office of the Superintendent and received information about the issuance of the Show Case Notice, Order-In-Original and the recovery notice.

4. All the above documents were dispatched on at the following address:-

"C-199/255A, Sumer Sargar Dharmshala Raod, Gorakhpur"

Whereas the correct address of the Appellant is as under:-

"C-119/255 A Sumer Sargar, Behind Bagchi Nursing home, Dharmshala Bazar, Gorakhpur"

5. It is the submission of the learned Consultant appearing on behalf of the Appellant that owing to the mistake in mentioning the correct house number, the documents were never received by the Appellant.

6. It is also submitted that subsequently, the Appellant visited the address as mentioned in the Order-In-Original i.e. C-199/255, Sumer Sagar, Dharamshala Road, Gorakhpur on 01.10.2023 and enquired from the person residing at that address. The person residing at that address introduced himself as Shri Suresh Chand Gupta and on being asked about receipt of any such letter from the department, he (Shri Suresh Gupta) informed that in his absence, the postman had given some letter which was addressed to his residence and that letter was received by his family members. He also forgot about that letter

and had kept somewhere. After searching it, Shri Suresh Chand Gupta handed over the envelope to the Appellant. Shri Suresh Chand Gupta has also sworn in an Affidavit which is reproduced as under:

भारतीय गैर न्यायिक

एक सौ रुपये Rs. 100

रु. 100 ONE HUNDRED RUPEES

सत्यमेव जयते

भारत INDIA

INDIA NON JUDICIAL

उत्तर प्रदेश UTTAR PRADESH HD 219199

शपथ पत्र

समक्ष कस्टम सेन्ट्रल इकसाईज एवं सर्विस टैक्स अपीलेट ट्रिब्यूनल, इलाहाबाद

मैं सुरेश चन्द्र गुप्ता उम्र करीब. 52 वर्ष, पुत्र श्री कन्हैया लाल गुप्ता, पता–199/255 सुमेरसागर, धर्मशाला बाजार, गोरखपुर का निवासी हूँ। मैं शपथपूर्वक यह बयान करता हूँ कि :–

1. डाकिया मेरे घर पर एक पत्र दे गया जिस पर पते के रूप में श्री छोटेलाल, सी–199/255, सुमेरसागर, धर्मशाला बाजार, गोरखपुर अंकित था। चुंकि पत्र लेते समय मैं घर पर उपस्थित नहीं था अतः मेरे घर वालों ने बिना कोई विरोध किये उक्त पत्र को रिसीव कर लिया क्योंकि उस पर मकान नं0–सी–199/255 अंकित था।
2. चुंकि पत्र पर मेरा नाम अंकित नहीं था अतः मैंने उक्त लिफाफे को नहीं खोला तथा घर में रखकर भूल गया।

22/5/26

सुरेश चन्द गुप्ता

2

3. दिनांक 01 अक्टूबर 2023 को एक व्यक्ति मेरे घर आये और उन्होंने अपना नाम छोटेलाल बताया। उन्होंने पूछा कि क्या मेरे नाम से कोई पत्र आपके पते पर आया है जिसे आपने या आपके परिवार जन से प्राप्त किया है। तब मुझे याद आया कि एक पत्र जो किसी भी छोटेलाल के नाम से है परन्तु पता उस पर मेरा है, उसे मेरे घर में डाकिया दे दिया है।

4. उक्त पत्र को ढूंढकर उसे मैंने श्री छोटेलाल जी को सौंप दिया।

मैं शपथकर्ता उपरोक्त बहलफ तस्दीक करता हूँ कि शपथ पत्र की पैरा 01 से लगायत 04 मेरी निजी जानकारी में सच व सही है और इसमें न कुछ झूठ है और न ही कुछ छिपाया गया है।

शपथकर्ता

सुरेश चन्द गुप्ता

सुरेश चन्द गुप्ता
199/255, सुमेर सागर
धर्मशाला बाजार, गोरखपुर

NOTARY GORAKHPUR

22/5/26

7. The Copy of Form 26AS of the relevant period also shows the address of the Appellant as Chhotelal 241, Mangalpur Sarhari, Sadar, Gorakhpur U.P.-273165 which is native place of the Appellant. The above fact clearly shows that the Show Cause Notice/Order-In-Original were sent on a wrong address.

8. After opening the envelop, the Appellant found an Adjudication Order/Order-In-Original No 46/ST/CGST/GKP-II/2022 dated 29.03.2022 through which a demand of Service Tax of Rs 15,70,349/- has been confirmed along with imposition of various penalties. The said Order was an *Ex- parte* order. The person residing at that premises also handed over another

envelope, which was Show Cause Notice No 64/ST/CGST/Gkp-II/20121 dated 11.10.2021 issued by the department relating to aforesaid proceeding and that was also sent to the same address C-199/255, Sumer Sagar, Dharamshala Road, Gorakhpur.

9. On perusal of the Order-In-Original and the Show Cause Notice, it is found that on the basis of third-party Data/ITR data for the F.Y. 2016-17, the Department initiated an Enquiry and issued the impugned Show Cause Notice which was subsequently decided by the impugned OIO dated 29.03.2022 as an *Ex-Parte* order.

10. Being aggrieved, an appeal was filed before the Commissioner (Appeals) on 29.11.2023, who vide Order-In-Appeal No 225/ST/Alld/2024 dated 03.04.2024 rejected the appeal, holding that Order-In-Original was received on 29.03.2023.

11. Learned Departmental Representative justified the impugned order and submitted that there is no consistency in the submissions of the Appellant regarding the receipt of the documents as alleged and accordingly he prayed that the appeal filed by the Appellant, being devoid of any merits, may be dismissed.

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

13. I find that the Show Cause Notice & the Order-In-Original have been dispatched by the Department at incorrect address and the Appellant came to know about the Show Cause Notice & the Order-In-Original only when the recovery proceedings were initiated and he received a call from the Department. The Appellant received the Order-In-Original only on 01.10.2023 and filed the Appeal before the Commissioner (Appeals) on 29.11.2023 i.e. well within the statutory period of 60 days.

14. I also find that the learned Commissioner (Appeals) has not decided the appeal on merits for want of compliance with the mandatory pre-deposit @ 7.5% of the demand confirmed as

required under Section 35F of the Central Excise Act, 1944. In this regard, I find that the Appellant has deposited 10% of the demand confirmed to comply with the mandatory pre-deposit to file the appeal before the Tribunal which covers 7.5% required to be deposited to comply with the mandatory pre-deposit as required under Section 35F of the Central Excise Act, 1944 before Commissioner (Appeals).

15. Accordingly, I find it appropriate to remand the matter to the learned Commissioner (Appeals) to decide the appeal on merits without further visiting the aspect of pre-deposit/limitation. Needless to mention that the Appellant should cooperate in the hearing of the appeal before the learned Commissioner (Appeals) and should not seek unnecessary adjournment.

(Dictated and pronounced in open court)

Sd/-

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

Nihal