CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 20327 of 2015

(Arising out of Order-in-Appeal No. MLR-EXCUS-000-DIVV-ADC-APP-HAB-121-2014 dated 21.11.2014 passed by the Commissioner of Central Excise (Appeals), Mysore.)

M/s. C.K.K. Caterers
Platform No.2, Mangalore Central Railway Station,
Mangalore – 575 001.

Appellant(s)

VERSUS

The Commissioner of Central Excise
7th Floor, Trade Centre,
Bunts Hostel Road,
Mangalore – 575 003.

Respondent(s)

APPEARANCE:

Mr. N. Anand, Advocate for the Appellant

Mr. M. Sreekanth, Superintendent (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI MEMBER (TECHNICAL)

Final Order No. 21272 /2025

DATE OF HEARING: 18.08.2025
DATE OF DECISION: 18.08.2025

DR. D.M. MISRA

Heard both sides.

2. At the outset, the learned advocate for the appellant submits that the learned Commissioner (Appeals) has not decided the issue on merit but dismissed the appeal for delay in

making the pre-deposit. He submits that by Stay Order dated 16.05.2014, the learned Commissioner (Appeals) directed the appellant to make a pre-deposit of Rs.4,69,000/- within five weeks which was further extended till 30.09.2014, on the request of the appellant. In compliance with the said direction, the appellant made pre-deposit on 30.09.2014 and intimated the same to the learned Commissioner (Appeals). However, the learned Commissioner (Appeals) has dismissed their appeal without deciding it on merit, observing that the delay of 93 days was not a 'simple delay'; hence, the appeal is not considered and dismissed for non-compliance with the condition of pre-deposit. He submits that even though the learned Commissioner (Appeals) has extended the period of deposit to 30.09.2014 and they had complied with the said condition, dismissal of the appeal is bad in law.

3. We find merit in the contention of the learned advocate for the appellant. From the records, we find that the appellant had complied the direction of pre-deposit within the period of extension allowed by the learned Commissioner (Appeals) i.e. on 30.09.2014. In the circumstances, dismissing their appeal without considering it on merit is unjustified. Hence, the impugned order is set aside and the appeal is remanded to the learned Commissioner (Appeals) to decide the case on merit. All issues are kept open. Needless to mention that principles of natural justice be adhered to.

4. Appeal is disposed of.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

Gb/Raja