

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 21363 of 2018

(Arising out of Order-in-Appeal No.MLR-EXCUS-000-APP-10-2018-19
dated 28.05.2018 passed by the Commissioner of Central Tax
(Appeals), Belgaum.)

Shri Chandrakant Jain
Chartered Accountant
City Plaza, 3rd Floor,
K.R.R. Road, Kodialail,
Mangalore – 575 003.

Appellant(s)

VERSUS

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

Respondent(s)

APPEARANCE:

Shri Mehul Mor, Advocate for the Appellant.

Shri Vinod Kumar Garhwal, Superintendent, Authorised Representative
for the Respondent.

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 22010 / 2025

DATE OF HEARING: 13.11.2025

DATE OF DECISION: 13.11.2025

PER : R. BHAGYA DEVI

This appeal is by the appellant Shri Chandrakant Jain,
Chartered Accountant against Order-in-Appeal No. MLR-EXCUS-
000-APP-10-2018-19 dated 28.05.2018 passed by the
Commissioner (Appeals), Belagavi.

2. Briefly the facts are the appellant had filed an appeal before the Commissioner (Appeals) on 25.05.2016 against Order-in-Original dated 11.12.2012, claimed to have been received on 30.03.2016. Noting that the Order-in-Original was received by the appellant on 08.01.2013, the Commissioner (A) rejects the appeal on the ground of delay beyond condonable period. Hence, this appeal.

3. At the time of hearing, the learned counsel submitted that the appellant was out of the country during the relevant period, hence, had no knowledge of the Order-in-Original. On his return to India, the appellant requested the Range Officer vide letter dated 23.03.2016 and received the same on 31.03.2016. Thus, filing of the appeal before the Commissioner (Appeals) was well within the appealable period. It is submitted that the claim of the department that Shri Vinaya. K received the order on his behalf is not justified since he was not an authorized person.

4. The Authorized Representative (AR) reiterated the observations of the Commissioner (Appeals) in the impugned order.

5. Heard both sides. The Commissioner (A) in the impugned order observes that the Assistant Commissioner vide his letter dated 10.05.2018 had stated that the Order-in-Original No. 69/2012 dated 11.12.2012 was dispatched but returned back as unclaimed by the addressee. Thereafter, the Jurisdictional Range Officer had served the Order-in-Original to the appellant on 08.01.2013. However, we find that there is nothing on record to prove that Mr. Vinaya. K was authorized person to receive on behalf of the appellant and the same cannot be accepted. Accordingly, the date of receipt as claimed by the appellant needs to be taken as the date of receipt of Order-in-Original and therefore, the appeal filed by appellant is well within the

appealable period. The appeal is to be entertained and to be decided on merit.

Appeal is allowed by way of remand to the Commissioner (Appeals) to decide the issue on merit.

(Operative portion of the order was pronounced in Open Court on conclusion of hearing.)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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