

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE**

Application(s) Involved:

**ST/COD/20279/2018, ST/COD/20275/2018,
ST/COD/20281/2018 in ST/21525/2017-DB, ST/21527/2017-
DB, ST/21530/2017-DB**

Appeal(s) Involved:

ST/21525/2017-DB, ST/21527/2017-DB, ST/21530/2017-DB

[Arising out of Order-in-Appeal Nos. 710 – 712/2014 dated
11/12/2014 passed by the Commissioner of Central Excise,
Customs and Service Tax, Cochin (Appeals)]

Boban Mani

Aged 52, S/o. Late Mani,
Erupoolumkattil, Mannathoor P.O.
Pampakuda,
Ernakulam
Kerala

Appellant(s)

Versus

**Commissioner of Central Excise,
Customs and Service Tax
Cochin**

C.R Building,
I.S Press Road, Ernakulam,
Cochin - 682 018
Kerala

Respondent(s)

Appearance:

Mr. Rigi, Advocate
Pullukatte
SRM Road, Ernakulam,
North Kochi
Kochi – 682 018
Kerala

For the Appellant

Mr. Madhupsharan, Assistant
Commissioner (AR)

For the Respondent

Date of Hearing: 16/07/2018

Date of Decision: 16/07/2018

CORAM:

HON'BLE MR. S.S GARG, JUDICIAL MEMBER

HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order Nos. 21032 - 21034 / 2018**Per: S.S GARG**

The applicant has filed these three appeals. Along with the appeals, applicant has filed applications seeking condonation of delay of more than two and half year. Since the reasons given for seeking condonation of delay are same therefore all the three applications are being disposed of by this common order. Along with applications seeking condonation of delay, the applicant has filed an affidavit stating that the applicant has filed the appeals against the common impugned order No. 710-712/2014 ST dated 11.12.2014 issued by the Commissioner of Central Excise (Appeals), Cochin. It is further been stated in the affidavit that the order was issued in December 2014 and the same was not served on the applicant till 10.08.2017. By July 2013, applicant-appellant joined preaching services with M/s. Grace Community and had been associated with them in their activities at Punjab and Hyderabad since then and he was not in Kerala since July 2013 and he has also annexed a certificate issued by M/s. Grace Community attesting his presence in Punjab and Hyderabad since July 2013. It has also been averred in the application that the applicant had transferred his business to his brother in law who was conducting the business since December 2013 and since July 2013 his father was residing at his residence address and he has also passed away on 29.05.2015 and his late father also did not inform him about any such order/letter received at his residence. Further he has received the information about the impugned order only in August 2017 and had taken steps to obtain certified copies of the same which was obtained by him by 10.08.2017 and thereafter preferred the present appeals.

2. Heard both the parties and perused the records.

3. Learned counsel for the applicant submitted that there is no delay in filing the appeals from the date, the order was received by him. He further submitted that he came to know about the impugned order in August 2017 and obtained the copy on 10.08.2017 and thereafter filed the appeals in October 2017. He further submitted that he left Kerala in July 2013 and transferred his business to his brother in law who never informed him about the receipt of any order passed by the Department. He also submitted that his father also passed away on 29.05.2015 and he was residing at his residence and even he did not inform him about any such order.

4. On the other hand the learned AR submitted that there is an inordinate delay in filing these appeals. He further submitted that the impugned order was passed on 11.12.2014 and thereafter it was sent to the applicant. But the applicant did not file the appeal within the time prescribed by law. He further submitted that the reasons given by the applicant in the application are not convincing and it is not possible that the applicant has not received the order because the business of the applicant is being run by his brother in law and at his residential address his father was staying up to 29.05.2015.

5. After considering the submissions of both the parties and perusal of the record, we find that the impugned order was passed on 11.12.2014 and the present appeals were filed on 25.10.2017 after the delay of more than two and half year. The only reasons given by the applicant is that he was not in Kerala since July 2013 and he has transferred his business to his brother in law since 2013. Further we find that the applicant has stated in the affidavit

that the entire issue canvassed in the appeal is under the scrutiny of the High Court of Kerala in WPC No. 26035/2014 which is pending before the Hon'ble High Court. If the applicant is aware of the petition pending in the High Court since 2013 and in spite of that he did not file the appeal before this Tribunal within the time stipulated in the Act itself shows that he is grossly negligent in pursuing his cases. Further the certificate issued by Grace Community only shows that he is conducting preaching sessions across various stations in India including Ludhiana, Punjab and Hyderabad. This certificate does not prove that he is not visiting Kerala during the last four years more so when his business is being run by his brother in law and at his residential address his father was residing till 29.05.2015. Since the delay in these present appeals is inordinate and the same has not been satisfactorily explained by the applicant to our satisfaction, consequently we are not inclined to condone the delay of more than two and half year and as a result of which COD applications are dismissed. Consequently, appeals are also dismissed.

(Operative portion of the Order was pronounced
in Open Court on **16/07/2018**)

(P. ANJANI KUMAR)
TECHNICAL MEMBER

(S.S GARG)
JUDICIAL MEMBER

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