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

Application(s) Involved:

E/COD/20025/2016, E/COD/20401/2016
in
E/20074/2016-DB, E/20691/2016-DB

E/Early Hearing/20040/2016
in
E/20074/2016-DB, E/20691/2016-DB

Appeal(s) Involved:

E/20074/2016-DB, E/20691/2016-DB

[Arising out of Order-in-Appeal No. 579-2014-CE dated 26/09/2014 passed by Commissioner of Central Excise , BANGALORE-II(Appeal)]

[Arising out of Order-in-Appeal No. 580-2014-CE dated 26/09/2014 passed by Commissioner of Central Excise , BANGALORE-II(Appeal)]

G 7 Systems Private Limited
No 11& 30,ramaiah Complex,vishwamanava
Kuvempu Road,dasarahalli Main Road, Ha
Farm Post Hebbal,bangalore
BANGALORE - 560024
KARNATAKA

Appellant(s)

Mr G K Senthil Rajan
Managing Director of
Ms G7 Systems Pvt Ltd
No 11& 30,ramaiah Complex,vishwamanava
Kuvempu Road,dasarahalli Main Road, Ha
Farm Post Hebbal,bangalore
BANGALORE - 560024
KARNATAKA

Appellant(s)

Versus

Commissioner of Central Excise,
Service Tax And Customs
Bangalore-ii
PB 5400 CR BUIDING...QUEENS ROAD,
BANGALORE, - 560001
KARNATAKA

Respondent(s)

Commissioner Of Central Tax,
Bangalore North
No-59, HMT Bhawan
Ground Floor, Bellary Road

Respondent(s)

BANGALORE - 560032
KARNATAKA

Appearance:

Shri Shivakari, Advocate
KIRAN S JAVALI
NO.37, 11TH MAIN, VASANTHANAGAR,
BANGALORE -560 052 KARNATAKA

For the Appellant

Dr. J. Harish, Dy. Commissioner(AR)

For the Respondent

Date of Hearing: 03/09/2018
Date of Decision: 03/09/2018

CORAM:

HON'BLE MR. S.S GARG, JUDICIAL MEMBER
HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 21309-21310 / 2018

Per : S.S. GARG

The applicant has filed the present applications seeking condonation of delay of 376 days and 499 days in filing the present appeals respectively. The applicant has further stated that the Order-in-Appeal was purported to have been delivered to the applicant on 30/09/2014 and the applicant was required to prefer appeals within 90 days of the receipt of the order which would be on or before 29/12/2014. The applicant has further stated that they engaged the services of a consultant to consider and handle their Central Excise matters and in particular these proceedings and the said consultant, after the receipt of the show-cause notice, filed the reply and appeared before the Additional Commissioner of Central Excise, Bangalore-II Commissionerate and thereafter appeal before the Commissioner(Appeals) was also filed by him and he attended the personal hearing but thereafter he failed to attend further proceedings or intimate the fact of non-attending. It has been further stated that the order passed by the Commissioner has been served on the applicant company but the same was never brought to the notice of the concerned officer of the company and consequently the factum of appeal having been rejected by the Commissioner(Appeals) was never brought to the notice of the management and it was only when they received the notice of the attachment of immovable property that they came to know about the order passed by the Commissioner(Appeals) rejecting the appeal and thereafter they conducted the enquiry which revealed that the Order-in-Appeal was received by the security personnel and has misplaced and was not handed over to the Accounts Department and therefore the appeal could not be filed in time. Therefore the applicant has prayed that the delay of 376 days and 499 days may be condoned and the appeals be decided on merits.

2. On the other hand, the learned AR submitted that the reasons given in the applications seeking condonation of delay are not satisfactorily explained. He further submitted that in the affidavit filed by the applicant, they have admitted that the order was served on the security personnel who misplaced the same and did not bring it to their notice. He further submitted that the applicant has not explained well in the affidavit that how they finally got the impugned order which was misplaced by the security personnel.

3. After considering the submissions of both the parties and perusal of the material on record, we find that the only ground given by the applicant for seeking COD of 376 days and 499 days is that the security person on whom the impugned order was served misplaced the same and

did not give to Accounts Department. This reason given for such a long delay does not inspire confidence. Further, we find that two appeals have been filed by the appellant (one by the company and other by the Managing Director) against the same impugned order, but the delay caused in both the appeals is different i.e. in one appeal 376 days and in other appeal filed by the Managing Director is 499 days, which clearly proves that appellant has been negligent in pursuing their cases. The reasons stated in the applications are not very convincing and therefore we are not inclined to condone such an inordinate delay of 376 days and 499 days. Consequently, we rejected the COD applications and as a result the appeals are also dismissed.

(Operative portion of the Order was pronounced
in Open Court on **03/09/2018**)

P. ANJANI KUMAR
TECHNICAL MEMBER

S.S GARG
JUDICIAL MEMBER

Raja...