CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 20668 of 2021

(Arising out of Order-in-Appeal No. TVM-EXCUS-000-APP-320-2020 dated 22/09/2020 passed by Commissioner of Central Tax , COCHIN(Appeal))

Beggora Infra & Developers Pvt Ltd
Karimkuttyil Building, Angadi Po
PATHANANTHITTA - 689674
KERALA

Appellant(s)

VERSUS

Commissioner Of Central Tax And Central Excise, Thiruvanthapuram
P.B.No.13, I.C.E Bhawan, Press Club Road
Thiruvanthapuram - 695001
Kerala

Respondent(s)

APPEARANCE:

Shri Tony C. Kallukalam, Advocate for the appellant.
Shri K.B. Nanaiah, Asst. Commissioner(AR) for the respondent.

CORAM
HON'BLE MR. S.K. MOHANTY, JUDICIAL MEMBER
HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 20825 / 2021

Date of Hearing: 01/11/2021
Date of Decision: 01/11/2021

Per : S.K. MOHANTY

Heard both sides and perused the records.

2. There is a delay of 8 days in filing the appeal before the Tribunal. The reason for delay explained in the miscellaneous

application seems reasonable. Accordingly, in the interest of justice, the delay in filing the appeal is condoned. Since the issue lies in a narrow compass, with the consent of both sides, the appeal is taken up for hearing and disposal today.

3. Learned Commissioner(Appeals) vide the impugned order dt. 22/09/2020 has rejected the appeal on the ground of limitation. On perusal of the case records, we find that there was a delay of 210 days in filing the appeal before the learned Commissioner(Appeals). Insofar as filing of appeal before the Commissioner(Appeals) is concerned, sub-section (3) of Section 85 of the Finance Act, 1994 mandates that an appeal shall be presented within three months from the date of receipt of the decision or order of the adjudicating authority. The first proviso appended to sub-section (3) of Section 85 ibid provides that the Commissioner(Appeals) may condone the delay on showing sufficient cause up to a period of 3 months. On a conjoint reading of sub-section (3) of Section 85 and the proviso appended thereto, it transpires that beyond the period of 6 months, the Commissioner(Appeals) is not empowered under the statute to condone the delay in filing the appeal. Admittedly, in this case, since there was delay of 210 days in filing the appeal before the learned Commissioner(Appeals), in our considered opinion, he has correctly rejected the appeal on the ground of limitation. Since the Tribunal is created and governed under the statute, the time limit prescribed in the statute cannot also be relaxed by it. In this context, the Hon’ble Supreme Court in the case of *Singh Enterprises Vs. CCE, Jamshedpur [2008(221) ELT 163 (SC)]* has held that time limit prescribed in the statute should strictly be adhered to and the authorities created under it are not competent to interpret the provisions in a different manner.

4. In view of the above, we do not find any infirmity in the impugned order passed by the learned Commissioner(Appeals). Accordingly, the appeal filed by the appellant is dismissed on the ground of limitation.

(Dictated and pronounced in open court
on 01/11/2021)

(S.K. MOHANTY)
JUDICIAL MEMBER

(P. ANJANI KUMAR)
TECHNICAL MEMBER

Raja...