

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SCO 147-148, SECTOR 17-C, CHANDIGARH-160017

SINGLE MEMBER BENCH

COURT NO.1
Appeal No.ST/61807-61808/2018 (SM)

(Arising out of OIA No.LUD-EXCUS-001-APP-1644-1667-18
dt.11.9.2018 passed by the CCE(Appeals), Ludhiana)

Date of hearing/decision: 06.02.2019

M/s. Alfa-II Network	Appellant
M/s. K.S. (Sunil) Cable Network	
Vs.	

Commissioner, CGST, Ludhiana	Respondent
<u>Appearance</u>	

Shri Sudhir Malhotra, Advocate for the appellants
Shri G.M.Sharma, AR for the respondent

CORAM: **Hon'ble Mr.Ashok Jindal, Member (Judicial)**

FINAL ORDER NO.60075-60076/2019

Per **ASHOK JINDAL:**

The appellants are in appeal against the impugned order wherein their appeals were dismissed at time barred by the Ld. Commissioner (Appeals).

2. The facts of the case are that show cause notices were issued to the appellants which were adjudicated in January-February, 2017 and against the adjudication orders, the appellants directly approached to the Hon'ble High Court of Punjab & Haryana through Writ Petitions. The Hon'ble High Court directed the appellants to approach the statutory appellate authority who will entertain the appeals. After the order of Hon'ble High Court dt. 28.03.2018, the appellants filed the appeals before the Ld. Commissioner (Appeals) in May-June, 2018.

The Ld. Commissioner (Appeals) dismissed the appeals as time barred as adjudication orders are of January-February, 2017 whereas the appeals have been filed in May-June, 2018. Against the said order, the appellants are before me.

3. Heard the parties.

4. Considering the fact that against the adjudication orders, the appellants approached before the Hon'ble High Court and Hon'ble High Court has directed the appellants to approach the statutory appellate authority. Therefore, the time consumed by the Hon'ble High Court by disposing their Writ Petition is required not to be taken as period of filing the appeals. In these circumstances, I hold that the appeals filed by the appellants are within time, therefore, the appeals cannot be dismissed as time barred by the Ld. Commissioner (Appeals). As delay in filing the appeals before the Ld. Commissioner (Appeals) is condoned and the Ld. Commissioner (Appeals) did not decide the matter on merit, therefore, by setting aside the impugned orders, the matters are remanded back to the Ld. Commissioner (Appeals) to decide the issue within 30 days of receipt of this order. The appellants are directed to approach before the Ld. Commissioner (Appeals) within 3 days of receipt of this order for fixing a date of hearing.

5. The appeals are disposed of by way of remand

(dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

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