Customs, Excise & Service Tax Appellate Tribunal
SCO 147-148, SECTOR-17-C, CHANDIGARH-160017
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Appeal No. ST/61916-61919/2018

(Arising out of OIA-LUD-EXCUS-001-APP-60-17-18 dated 25.05.2017 passed by the Commissioner (Appeals) of Service Tax-LUDHIANA)

Ms Ahluwalia Contracts Ltd : Appellant (s)

Vs

C.C.E. & S.T.-Ludhiana : Respondent (s)

Represented by:
For Appellant (s) : Shri S. K. Sarwal, Advocate
For Respondent (s): Shri V. Gupta, AR

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

Date of Hearing/Decision:30.01.2019

ORDER No. A/60066-60069 / 2019

Per : Mr. Ashok Jindal

The appellant filed these appeals against the impugned orders wherein their appeals have been dismissed as time barred.

2. The facts of the case are that against the adjudication orders, the appellant filed appeals beyond the time limit prescribed under Section 37C of the Central Excise Act, 1944. The only ground taken by the appellant for non-filing the appeal in time and it is the contention as and when they received the adjudication orders, they filed appeals before the Ld. Commissioner (Appeals), but the Ld. Commissioner (Appeals) without appreciating the said facts, rejected their appeals as time barred. Against those orders, the appellant is before us.

3. Heard the parties.
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4. Considering the fact that Revenue could not show the delivery of the adjudication orders on the appellant in terms of Section 37C of the Central Excise Act, 1944, in that circumstances, the benefit of doubt goes in favour of the appellant. Accordingly, I hold that the appellant filed appeals before the Ld. Commissioner (Appeals) within time on receipt of the adjudication orders. Therefore, on the said ground, the appeals cannot be dismissed as time barred.

5. Considering the fact that the Ld. Commissioner (Appeals) has not discussed the merits of the case, in that circumstances, by setting the impugned orders and the matters are remanded back to the Ld. Commissioner (Appeals) to decide the issue on merits within 3 months of the date of receipt of this order. Appellant is also directed to approach the Ld. Commissioner (appeals) to fix a date for hearing alongwith the copy of the order of this Tribunal. Appeals are disposed of by way of remand.

(Dictated & pronounced in the Court)

(Ashok Jindal)
Member (Judicial)

G.Y.