

**Customs, Excise & Service Tax Appellate Tribunal**  
SCO 147-148, SECTOR-17-C, CHANDIGARH-160017

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Application No. E/COD/60161/2017

Appeal No. E/60312/2017

[Arising out of OIA-JNK-EXCUS-000-APP-391-13-14 dated 19.11.2013 passed by the Commissioner (Appeals) of Central Excise-JAMMU & KASHMIR]

M/s Roland Exports : Appellant (s)

Vs

CCE & ST- Jammu & Kashmir : Respondent (s)

**Represented by:**

For Appellant (s) : Shri Naveen Bindal, Advocate

For Respondent (s): Shri V. Gupta, AR

**CORAM :**

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

**Mr. Bijay Kumar,, Hon'ble Member (Technical)**

Date of Hearing/Decision: 04.12.2018

**ORDER No. A/63538 / 2018**

**Per : Mr. Ashok Jindal**

The appellant is in appeal against the impugned order dated 22.11.2013 with an application for condonation of delay.

2. The contention of the Ld. Counsel for the appellant is that they have not received the impugned order and after receiving the photocopy from the department they have filed appeal on 17.04.2017 with a delay and it is also prayed that they have filed RTI application to know whether the impugned order has been delivered to the appellant or not and it was found that records are not traceable, in that circumstances, the date of delivery of the impugned order is not know. In that circumstances, the delay is to be condoned.

3. On the other hand the Ld. AR for the Revenue submits that the impugned order was pasted in the presence of the two witnesses, viz. Shri Kuldeep Sharma and Shri Suresh Kumar on 20.12.2013 and thereafter recovery notices were sent to the appellant, but as appellant's unit was lying closed, in that circumstances, the impugned order was delivered to the appellant well on 20.12.2013, therefore, the delay cannot be condoned.

4. Heard the parties and considered the submissions.

5. On careful consideration of arguments advanced by both sides and perused the records. We find that the impugned order has been pasted at the factory premises of the appellant on 20.12.2013, as the factory of the appellant was closed. Further, we take a note of the fact that several recovery notices were sent to the appellant and appellant did not bother to find out what is the impugned order and why recovery notice has been sent to them. Moreover, instead of coming to this Tribunal, the appellant has challenged one of the recovery notice before the Hon'ble High Court of Jammu and Kashmir and the Hon'ble High Court vide its order dated 01.12.2016 has dismissed their writ petition. The said order was received by the appellant on 13.12.2016, thereafter, also the appellant has not approach to this Tribunal in time, in that circumstances, we don't find any reason to condone the delay in filing the appeal. In fact, the appellant's factory remained closed and the appellant was not pro-active to know about the status of their appeal before the Ld. Commissioner (A). In that

circumstances, the appellant cannot be given any immunity before this Tribunal, therefore, the application for condonation of delay is dismissed.

6. In result, the appeal is also dismissed as time barred.

*(Dictated & pronounced in the Court)*

**(Bijay Kumar)**  
Member (Technical)

**(Ashok Jindal)**  
Member (Judicial)

G.Y.