CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Appeal No. ST/60191/2019-ST[SM]

(Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-1866-1867-18 dated 06.11..2018 passed by the Commissioner (Appeals), Ludhiana)

Akshay Cable **......Appellant**
(B-11-1717/3-C, Street No. 2, Mohalla Fatehgarh, Ludhiana, Punjab)

VERSUS

Commissioner of C.E. & S.T., Ludhiana **......Respondent**
(Central Excise House, F-Block, Rishi Nagar, Ludhiana, Punjab)

APPEARANCE:

Mr. Poojan Malhotra, Advocate for the Appellant

Mr. Bhasha Ram, Authorised Representative for the Respondent

CORAM: **HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**

FINAL ORDER NO. 60727/2019

DATE OF HEARING: 29.08.2019
DATE OF DECISION: 29.08.2019

PER ASHOK JINDAL:

The appellant is in appeal against the impugned order, wherein their appeal was dismissed as time barred by the Ld. Commissioner (Appeals).

2. The facts of the case are that show cause notice was issued to the appellant which was adjudicated in January-February, 2017 and against the adjudication order, the appellant directly approached to the Hon'ble High Court of Punjab & Haryana through Writ Petitions. The Hon'ble High Court directed the appellant to approach the statutory appellate authority who will entertain the appeal. After the

order of Hon'ble High Court dt. 28.03.2018, the appellant filed the appeal before the Ld. Commissioner (Appeals) in May-June, 2018. The Ld. Commissioner (Appeals) dismissed the appeal as time barred as adjudication order is of January-February, 2017, whereas the appeal has been filed in May-June, 2018. Against the said order, the appellant is before me.

3. Heard the parties.

4. Considering the fact that against the adjudication order, the appellant approached before the Hon'ble High Court and Hon'ble High Court has directed the appellant 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 appeal. In these circumstances, I hold that the appeal filed by the appellant is within time, therefore, the appeal cannot be dismissed as time barred by the Ld. Commissioner (Appeals). As delay in filing the appeal 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 order, the matter is remanded back to the Ld. Commissioner (Appeals) to decide the issue within 30 days of receipt of this order. The appellant is directed to approach before the Ld. Commissioner (Appeals) within 3 days of receipt of this order for fixing a date of hearing.

5. The appeal is disposed of by way of remand.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMEBR (JUDICIAL)

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