CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I (E-Hearing)

Excise Appeal No. 60414 of 2020

(Arising out of Order-in-Appeal No. Appeal/PKL/Comm/28&29/2020-21 dated 17.08.2020 passed by the Commissioner (Appeals), Haryana)

Raman Narula ......**Appellant**
(H No. 297 Ground Floor Indra Prastha Colony Sector 30-33 Faridabad Haryana 121003)

VERSUS

C.C.E & S.T. Rohtak ......**Respondent**
(Pacific City Centre, IInd Floor, Near Jat Bhawan Delhi Road, Rohtak, Haryana 124001)

WITH

Excise Appeal No. 60415 of 2020

(Arising out of Order-in-Appeal No. Appeal/PKL/Comm/28&29/2020-21 dated 17.08.2020 passed by the Commissioner (Appeals), Haryana)

M/s Shivam Enterprises ......**Appellant**
(H No. 297 Ground Floor Indra Prastha Colony Sector 30-33 Faridabad Haryana 121003)

VERSUS

C.C.E & S.T. Rohtak ......**Respondent**
(Pacific City Centre, IInd Floor, Near Jat Bhawan Delhi Road, Rohtak, Haryana 124001)

APPEARANCE:

Mr. N.K. Sharma, Advocate for the Appellant

Mr. Tarun Kumar, Authorised Representative for the Respondent

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

FINAL ORDER 60550-60551 of 2021

DATE OF HEARING: 17.03.2021
DATE OF DECISION: 17.03.2021

PER ASHOK JINDAL:

The appellants are in appeal against the impugned order where in their appeals have been dismissed by the Ld. Commissioner (Appeals) as barred by limitation as the adjudication order received by the appellant on 12.12.2019 against which they have filed appeals on 03.06.2020. The Ld. Counsel appearing on behalf of the appellant submits that after adjudication order, the appellants opted for "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019" on 28.12.2019, the said application was rejected by the competent authority on 16.03.2020, thereafter the lockdown was declared by the Hon'ble Prime Minister of India with effect from 23.03.2020 and it was completely lockdown till 03.05.2020, thereafter with certain restrictions the lockdown was opened, it is a submission that the Hon'ble Apex Court has taken sue Motto cognizance by way of sue motto writ petition civil no. 3/2020 and passed an order on 08.03.2021 holding that in case the limitation expired during the period 15.03.2020 till 14.03.2021 all the appellants having a limitation period of 90 days from 15.03.2021.

2. On the other hand, Ld. AR submits that it is a fact on record that the adjudication order was received by the appellant on 12.12.2019 against that they have required to file appeal before the Ld. Commissioner (Appeals) within 60 days of the said period can be extended by another 30 days showing the reasons for causing delay. Admittedly, the appellant has filed appeal beyond that period, therefore, appeals filed by the appellants are barred by the limitation as held by the Hon'ble Apex Court in the case of ***M/s Singh enterprises Vs. Commissioner of C.ex, Jamshedpur-2008 (221)***

E.L.T.161 (SC) and ***M/s R. Gowrishankar V. Commissioner-2016 (339) E.L.T. A48 (Mad.)*** and the gazette notification issued by the government of India on 31.03.2020.

3. Heard the parties and considered the submissions.

4. It is a fact on record that the adjudication order was received by the appellants on 12.12.2019, the appellants opted for the scheme of Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019" on 28.12.2019. As the appellants were having alternative remedy and opted for the same but the said option was denied to the appellant on 16.03.2020, in these circumstances, after consuming 16 days of limitation, the limitation shall start from 16.03.2020 for the remaining period. Further, the Hon'ble Apex Court have taken sue motto cognizance for extension of limitation in sue moto writ petition civil no. 3/2020 wherein 08.03.2021 the Hon'ble Apex Court has held that in case where the limitation period expired during the period 15.03.2020 till 14.03.2021, the limitation shall start from 15.03.2021. Admittedly, the appellants have filed appeal within this period, in that circumstances, the order of the Ld. Commissioner (Appeals) is bad in law, therefore, the impugned order is set aside.

5. Further, I find that Ld. Commissioner (Appeals) has not decided the merits of the appeal, therefore, the Ld. Commissioner (Appeals) is directed to decide the issue on merits within 60 days of the receipt of this order and pass the detailed speaking order for disposal of the appeals. The cases relied by the Ld. AR are not applicable in the facts and circumstances of the case as per the

decision taken by the Hon'ble Apex Court in Suo Motto writ petition civil no. 3/2020.

6. With these terms, the appeals are disposed off by way of remand.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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