CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHANDIGARH</u>

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

Service Tax Appeal No. 60420 of 2020

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-428-436-20 dated 22.09.2020 passed by the Commissioner of CE & ST (Appeals), Ludhiana]

M/s Jass City Vision **......Appellant**
(Kabir Nagar, Opp. A T I,
Ludhiana, Punjab - 141002)

VERSUS

Commissioner of CE & ST, Ludhiana **......Respondent**
(F Block, Rishi Nagar,
Ludhiana, Punjab - 141001)

<u>APPEARANCE:</u>

Present for the Appellant: Mr. Naveen Bindal, Advocate

Present for the Respondent: Mr. Vijay Gupta, Authorized Representative

<u>CORAM:</u> **HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**

FINAL ORDER NO. 60559/2021

DATE OF HEARING: 18.03.2021
DATE OF DECISION: 18.03.2021

PER ASHOK JINDAL:

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

2. The facts of the case are that the adjudication order was passed on 27.01.2017. The adjudication order was challenged before the Hon'ble High Court of Punjab & Haryana through writ petition and the Hon'ble High Court of Punjab & Haryana finally disposed off their writ petition on 28.03.20218. Thereafter, the appellant applied the

certified copy of the order of the Hon'ble High Court on 26.07.2018 and the same was received by them on 27.07.2018, thereafter, the appeal was filed on 14.08.2018, the said appeal has been dismissed by the Ld. Commissioner (Appeals) as time barred in terms of Section 85(3) of the Finance Act, 1944. Against the said order, the appellant is before me.

3. Heard the parties.

4. As facts on record are not disputed as in terms of Section 85(3) of the Finance Act, 1944 aggrieved by Ld. Commissioner (Appeals) within 60 days of the receipt of adjudication order and the said period can be extended by another 30 days on showing a sufficient reason of causing the delay. In this case, the adjudication order dated 27.01.2017 has been challenged by the appellant before the Hon'ble High Court by way of writ petitions but the date of filing of writ petitions had not been provided by the Ld. Counsel for the appellant. Moreover, it is a fact on record that the order of the Hon'ble High Court was passed the order on 28.03.2018 and thereafter till 4 months no application for providing certified copy of the order by Hon'ble High Court and after receiving the certified copy also the appellant has filed the appeal after more than 15 days of the receipt of their order. In these Circumstances, I hold that as the hands of the Ld. Commissioner (Appeals) are tight with the law in terms of Section 85(3) of the Finance Act, 1994, therefore, if we consider the time consumed by the appellant before the Hon'ble High Court is to be excluded than also the appeal has been filed before the Ld. Commissioner (Appeals) beyond the time limit prescribed in statute,

in that circumstances, I hold that the appeal filed by the appellant is highly time barred.

5. In these circumstances, I do not find any infirmity in the impugned order, therefore, I dismiss the appeal filed by the appellant.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

RA_Saifi