

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT NO. III

Customs Misc. Application No.40055 of 2019

(on behalf of Appellant)

In

Customs Appeal No. 40198 of 2019

(Arising out of Order-in-Original No.50231/2016 dt. 23.09.2016 passed by Commissioner of Customs, Chennai-II]

M/s.Sherisha Technologies Private Ltd.,

Appellant

Director

No.67, Bazullah Road, T. Nagar,
Chennai 600 017.

VERSUS

Commissioner of Customs,

Respondent

Chennai II Commissionerate
Custom House,
60, Rajaji Salai
Chennai 600 001.

WITH

Misc. Application Nos. (i) C/COD/40056/2019 in C/40200/2019 (Ajil Jain); (ii) C/COD/40057/2019 in C/40201/2019 (Lalitha); (iii) C/COD/40058/2019 in C/40202/2019 (Ravi); (iv) C/COD/40059/2019 in C/40203/2019 (Reflex Industries Ltd.)

(Arising out of Order-in-Original No.50231/2016 dt. 23.09.2016 passed by Commissioner of Customs, Chennai-II]

APPEARANCE :

Ms. S. Sridevi, Advocate for the Appellant
For the Appellant

Shri M. Jagan Babu, AC (AR) for the Respondent
For the Respondent

CORAM :

HON'BLE MS. SULEKHA BEEVI, C.S., MEMBER (JUDICIAL)
HON'BLE MR. MADHU MOHAN DAMODHAR, MEMBER(TECHNICAL)

DATE OF HEARING : 30.04.2019
DATE OF DECISION : 30.04.2019

MISC ORDER No. 40271-40275 / 2019**PER SULEKHA BEEVI, C.S**

The above applications for condonation of delay are filed by applicant/ appellant to condone the delay of 718 days each in filing the appeals.

2. Today when the matter came up for hearing, Ld. Counsel Ms. Akshita submitted that the delay occurred because the appellant was prosecuting writ petitions before the Hon'ble High Court of Madras challenging the very same Order-in-Original which is impugned in these appeals. The writ petitions were dismissed on 20.12.2017 and the appellant filed writ appeals which were dismissed on 20.03.2018. The Counsel submits that copy of the said order was issued only on 13.11.2018. The appeals were filed before Tribunal on 26.11.2018 which is well within time. The delay occurred only because the appellant was prosecuting remedy available under Article 226 of Constitution of India. It is also adverted by counsel that the same has been taken note of by the Hon'ble High Court which has granted liberty and directed the appellant to file appeal to CESTAT.

3. Ld.A.R Ms. T.Usha Devi has no objection to COD applications.

4. On perusal of records, we find that the impugned Order-in-Original was passed on 23.09.2016 and issued on 26.09.2016. Against this, appellant had filed Writ Petition Nos.33074 to 33078 of 2017 before the Hon'ble High Court and the same were dismissed on

20.12.2017. The Writ Appeals bearing No.619 to 621 of 2018 were also filed before the jurisdictional Hon'ble High Court which were dismissed on 20.03.2018. In para-17 of the said judgment, it is stated that appellant have alternate remedy to approach CESTAT. On perusal of copy of the order also, it is seen that though the judgement was passed on 20.03,2018, copy of order has been signed and issued only on 13.11.2018. Therefore, the captioned appeals filed on 20.11.2018 before Tribunal are within time.

5. When calculating from the date of issuance of copy of the order by the Hon'ble High Court, Madras, we find that the appellants have shown sufficient cause for the delay. The same is accepted and the delay is condoned. COD applications are allowed.

(dictated and pronounced in court)

(Sulekha Beevi, C.S)
Member (Judicial)

(Madhu Mohan Damodhar)
Member (Technical)

