

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

REGIONAL BENCH – COURT NO. III

**Customs [COD] Application No.40016 of 2020
in
Customs Appeal No.40022 of 2020**

(Arising out of Order-in-Appeal No.C. Cus. No.1031/2014, dated 24.06.2014 passed by
Commissioner of Customs (Appeals), Chennai)

S.P. Ramu,
Proprietor,
M/s. Builders World Vivek Publications,
No.82/86, T.P. Koil Street,
Triplicane,
Chennai – 600 005.

: Appellant

VERSUS

Commissioner of Customs,
Chennai – II Commissionerate,
Customs House,
No.60, Rajaji Salai,
Chennai 600 001.

: Respondent

APPEARANCE:

Shri G. Derrick Sam, Advocate for the Appellant

Shri Arul C. Durairaj, Supdt. for the Respondent

CORAM:

**HON'BLE SMT. SULEKHA BEEVI C.S, MEMBER (JUDICIAL)
HON'BLE SHRI ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

FINAL ORDER NO. 40752 / 2020

DATE OF HEARING: 04.03.2020

DATE OF DECISION: 04.03.2020

Per Smt. Sulekha Beevi C.S:

The above application for condonation of has been filed by the
appellant to condone the delay of 1,930 days delay in filing the appeal.
On behalf of the appellant, the learned counsel Shri G. Derrick Sam

submitted that the appellant did not receive a copy of the impugned order passed by Commissioner (Appeals) as the address of the appellant had changed. The notice for recovery of demand was issued by department through the Customs broker and the appellant came to know that the order has been passed. A copy of the order was then obtained and present appeal was filed before the Tribunal along with petition to condone the delay. The Commissioner (Appeals) had dismissed the appeal for non-compliance of the interim order, wherein, the appellant was directed to pre-deposit an amount of Rs.15 lakhs, which is the total disputed demand in the appeal. of this appeal. The appeal was disposed on 24.06.2021 by Commissioner (Appeals). The appellant could not file the appeal within time since they did not receive copy of the order due to change of address. After filing appeal before the Tribunal along with this delay petition, the appellant moved the Hon'ble High Court by filing a Writ Petition No.813 of 2020 against the recovery notice issued by the department. The Hon'ble High Court directed the appellant to deposit a further sum of Rs.5 lakhs in addition to the sum of Rs.4 lakhs already deposited, within a period of four weeks from the date of the order, which is 17.02.2020. He submitted that the appellant is yet to make the deposit as directed by Hon'ble High Court. It is also prayed by him that the appellant may be given a chance to decide the case on merits.

2. On behalf of the Authorised Representative Shri Arul C. Durairaj, Supdt., opposed the application.

3. Heard both sides.

4. On perusal of records, we find that the total demand is Rs.15 lakhs. On appeal, the Commissioner (Appeals) vide the impugned order has dismissed the appeal as the appellant did not comply with the direction to pre-deposit. The Hon'ble High Court vide Writ Petition No.813 of 2020 has directed the appellant to deposit a further sum of Rs.5 lakhs. It is noted that the appellant has already paid a sum of Rs.4 lakhs in regard to the demand. From these facts, we are of the

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considered opinion that the appellant has made out sufficient cause to condone the delay.

5. The Commissioner (Appeals) has dismissed the appeal for non-compliance of pre-deposit. No purpose will be served by keeping the appeal pending in the files of Tribunal as there is no order on merits. With the consent of both sides, we proceed to dispose the appeal itself. On perusal of records, it is seen that the Commissioner (Appeals) has not considered the merits of the case. The appeal is remanded to Commissioner (Appeals), who is directed to decide the appeal on merits. Needless to say that appellant has to comply with the direction of the Hon'ble High Court and deposit the amount of Rs.5 lakhs within the time prescribed by the Hon'ble High Court. Appeal is allowed by way of remand.

(Dictated and pronounced in the open court)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

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	DRAFT			Remarks
	I	II	III	
Date of dictation	04.03.2020			
Draft Order - Date of typing	05.03.2020			
Fair Order Typing	06.03.2020			
Date of numbering and date of dispatch	09.03.2020			