IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

C/40719/2017

[Arising out of Order-in-Appeal No.22/2017, dated 11.01.2017 passed by the Commissioner of Customs & Central Excise (Appeals-2), Tiruchirapalli]

M/s. RASHEEDA BEEVI APPELLANT

Versus

COMMISSIONER OF CUSTOMS, TIRUCHIRAPALLI RESPONDENT

Appearance:

For the Appellant Shri P. Sundarajan, Adv.
For the Respondent Shri K. Veerabhadra Reddy, JC (AR)

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)

Date of hearing/decision **07-07-2017**

FINAL ORDER NO. 41255/2017

Per Archana Wadhwa:

After hearing both sides and after going through the impugned order, I find that Commissioner (Appeals) has rejected the appeal as barred by limitation, inasmuch as, the same stands filed with a delay of 184 days. Commissioner (Appeals) has observed that the appeal was required to be filed before him within a period of 60 days from the date of communication of the order and the delay in filing appeal can be condoned for a further period of 30 days. Inasmuch as, in the present case, the appeal stands filed even after the condonable delay of 30 days as per section 128 of the Customs Act, 1962, the appeal is hit by bar of limitation.

2. I find that the issue is no more *res integra* and stands well settled by various decisions, apart from the judgment relied upon by

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Commissioner (Appeals) laying down the time-limit cannot be increased even if there was a genuine reason. Reference can be made to the Hon'ble Supreme Court's decision in the case of *Singh Enterprises Vs Commissioner of Central Excise, Jamshedpur Vs Commissioner of Central Excise, Jamshedpur* reported in *2008 (221) E.L.T.163 (S.C.).* It stands held that Commissioner (Appeals) is empowered to condone the delay for a period of 30 days only as provided statutorily, and ~~be~~ has no jurisdiction to condone further delay.

3. The appellant, in their memo of appeal have nowhere disputed the date of receipt of the order impugned before Commissioner (Appeals) and have not contested that there was a delay of 164 days. As ~~it is~~ issue legally stands rested, I find no reason to interfere in the impugned order of Commissioner (Appeals).

The appeal is accordingly rejected.

(Dictated and pronounced in open court)

24/7/17

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

ksr
24-07-2017

प्रमाणित प्रति/Certified True Copy
24/8
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Excise & Service Tax Appellate Tribunal