CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
CHENNAI

Application Nos.C/MISC/40966/2016, C/MISC/41107/2016
in C/40787/2016
C/MISC/40967/2016, C/MISC/41108/2016
in C/40788/2016

Kamadhenu Polymers Pvt. Ltd. Applicant

Versus

Commissioner of Customs (Sea)
Chennai-IV Respondent

Date of Hearing/Decision : 28.03.2017

PRESENT :

Shri B. N. Gururaj, Advocate
For the Applicant

Shri L. Paneerselvam, AC (AR)
For the Respondent

CORAM:
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

MISC. ORDER No. 40146-40149/2017

Four Miscellaneous Applications have been filed by appellant. In two MA Nos.40966,40967/2016, the appellants are seeking restoration of the appeals which were dismissed by the Tribunal's Final Order No.41839-41840/2016 dt. 7.10.2016.

2. Today when the matter came up for hearing, on behalf of appellant, Ld. Advocate Shri B.N. Gururaj reiterated the grounds in the MA and, in particular, emphasized the following :-

(i) At least one more opportunity should have been given to them.

(ii) They have relied on documentary evidence obtained under RTI Act and have argued that lower appellate authority has wrongly held that departmental appeal had been filed within limitation period only on a mere declaration of Administrative Officer of the Review Section. Such a clarification was given in 2016, i.e is after six years after actual review of the order in 2010.

2.2 Ld.advocate, however, clarifies that they are not now pressing that the matter to be heard by DB which contention had been done earlier.

3. On the other hand, Ld. A.R states that all the aspects have been taken into account by the Tribunal's order (supra) and there is no fit cause for restoration.

4. Heard both sides. It is seen that Tribunal's order referred to supra has taken into account all the arguments made by the appellant, in particular, the finding of lower authority that appeals have been filed within the time limit. Although ld. Advocate contends that documents obtained by him indicate that only short replies have been given by the concerned officer/section and that too six years after review was done, this forum will have to necessarily rely on the certificate given by Revenue concerning the dates of review, date of filing of appeal etc. and will have no reason to distrust such clarification given by Revenue. In any case, this

forum also is not equipped to conduct a forensic investigation in response to the arguments of the ld. advocate. In these circumstances, no merit is found in the application for restoration and hence that is dismissed. In consequence, the other MAs filed seeking permission for filing additional evidence are also disposed of accordingly.

(Dictated and pronounced in open court)

(MADHU MOHAN DAMODHAR)
MEMBER (TECHNICAL)

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Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति/Certified True Copy

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