

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

ST/COD/40027/2017 & ST/40091/2017

(Arising out of Order-in Appeal No. 183/2013 dated 08.05.2013 passed by the Commissioner of Customs, Central Excise and Service Tax, Coimbatore).

M/s. RU's Marketing and Creative Unit : Appellant

Vs.

CST, Coimbatore : Respondent

Appearance

Shri S. Annamalai, Adv.,
For the appellant

Shri R. Subramaniam, AC (AR)
For the respondent

CORAM

Hon'ble Shri D.N.PANDA, Judicial Member
Hon'ble Shri MADHU MOHAN DAMODHAR, Technical Member

Date of Hearing/Decision: **09.03.2017**

FINAL ORDER No. 40492/2017

Per: D.N.Panda,

Record reveals that address of the appellant before Id. Commissioner (Appeals) was as under:-

"M/s. RU's Marketing and Creative Unit,
Flat No. 1, Siddhi Vinayak,
Veer Savarkar Road,
Prabha Devi, Mumbai - 400 028.

2. The enquiry report came from the Commissionerate shows that the Order in Appeal was sent to Mumbai address of the appellant as above. Authority had taken proper steps to serve the



appellate order at the address of appellant available on record, ~~Appellant~~ failed to controvert that. No other address was furnished to the office of the Id. Commissioner (Appeals). Therefore, in absence of any logical reason stated, we are not satisfied that the appellate order was not served on the assessee duly and appropriately under law. Accordingly in absence of satisfactory explanation for condonation of delay came up from the appellant, that is not condonable.

3. We are conscious that if delay is not condoned, the appeal goes out of consideration at the threshold. We are conscious that Apex Court in the case of *COLLECTOR, LAND ACQUISITION ANANTNAG AND ANOTHER Vs. MST. KATIJI AND OTHERS* - 1987 (28) E.L.T. 185 (S.C.), has held that no one shall prefer to cause prejudice to himself by a belated appeal. But this is the case where the appellant carelessly exposed itself to prejudice. That rendered this appeal to go out of consideration. We are also conscious of the Apex Court judgment in the case of *N. Balakrishnan Vs. M. Krishnamurthy* -2008 (228) E.L.T. 162 (S.C.). Reason of delay has primacy over length of delay. But in the present case, reason of delay remained unexplained. Length of delay was only taken as a shelter to pray for lenient consideration. But for the reasons stated above, delay is not condonable and MA (COD) is accordingly dismissed.

4. In consequence, the appeal stands dismissed.

(Dictated and pronounced in open Court)


(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

BB


(D.N. PANDA)
JUDICIAL MEMBER



प्रमाणित प्रति / Certified True Copy

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सहायक पंजीकार / Asst. Registrar
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