CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.
PRINCIPAL BENCH - COURT NO. II

Excise Appeal No.52941 of 2016 - SM

[Arising out of Order-in-Appeal No.BHO-EXCUS-002-APP-042-14-15 dated 13.03.2015 passed by the Commissioner (Appeals), Central Excise, Customs & Service Tax, Raipur]

M/s.Narmada Sugar Private Limited **Appellant**
Ponder Salichauka, Gadarwara, Distt. Narsinghpur
Madhya Pradesh.

VERSUS

Commissioner of Central Excise and Service Tax, **Respondent**
Central Excise Building, Dhamtari Road,,
Tikrapara, Raipur,
Chhattisgarh-492 001.

AND

Excise Appeal No.52942 of 2016 - SM

[Arising out of Order-in-Appeal No.BHO-EXCUS-002-APP-041-14-15 dated 13.03.2015 passed by the Commissioner (Appeals), Central Excise, Customs & Service Tax, Raipur]

M/s. Shakti Sugar Mills Private Limited **Appellant**
Kodia, Teh.- Gadarwara, Distt.- Narsinghpur,
Madhya Pradesh.

VERSUS

Commissioner of Central Excise and Service Tax, **Respondent**
Central Excise Building, Dhamtari Road,,
Tikrapara, Raipur,
Chhattisgarh-492 001.

APPEARANCE:

Shri P.C. Kashiv, Consultant for the appellants.
Shri S. Nunthuk, Authorised Representative for the respondent.

CORAM: HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NOS.51552-51553/2019

DATE OF HEARING: 26.06.2019
DATE OF DECISION: 26.06.2019

ANIL CHOUDHARY:

The appellants have complied with the precedent order.

2. Heard the parties on these appeals, wherein common questions are involved. Both the impugned orders are passed by the same Commissioner (Appeals) on the same date and the orders are *pari materia.*

3. Upon hearing the parties and perusing the impugned order-in-appeal, I find that the ld. Commissioner (Appeals) has dismissed the appeals on the ground of limitation. The appeals evidently were filed with the delay of about 13 days (beyond 60 days). The counsel appearing for the parties had also appeared before the court below and informed that the issue of limitation was discussed before the ld. Commissioner (Appeals). For the only reason of not filing condonation application, dismissed the appeals on the ground of limitation, is unjustified and caused prejudice to the appellants. He further, urges that there being delay of few days, which was not deliberate, the appeals may be allowed by way of remand to the Commissioner (Appeals), for hearing on merits.

4. Learned Authorised Representative appearing for the Revenue states that the appellants, in spite of having knowledge of time bar, have failed to file the COD application.

5. Having considered the rival contentions, I find that the Commissioner (Appeals) did not give proper opportunity to the appellant to file COD application. Accordingly, in the interst of justice, the limitation is condoned and these appeals are allowed by way of remand to the ld. Commissioner (Appeals) with the direction to hear the appellants and decide the matter on merits, in accordance with law.

6. The appellants are also directed to appear before the ld. Commissioner (Appeals) with copy of this order and seek opportunity of hearing.

[Order dictated and pronounced in open court]

(Anil Choudhary)
Member (Judicial)

Ckp.