CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. 1

SERVICE TAX CONDONATION OF DELAY APPLICATION No. 51186 of 2019
IN
SERVICE TAX APPEAL No. 52782 of 2019

(Arising out of Order-in-Appeal No. BHO-EXCUS-001-APP-281-18-19 dated 30.11.2018 passed by the Commissioner (Appeal), CGST, Bhopal)

Basediya Construction **........Appellant**
(Main Road Saikheda, Tehsil,
Gadarwara, Narsinghpur,
Madhya Pradesh- 487661

VERSUS

Commissioner of Central Goods And Service Tax, Jabalpur **.... Respondent**
(GST Bhawan, C.R. Building, Mission Chowk,
Jabalpur, Madhya Pradesh- 482001)

APPERANCE:

None
Mr. K. Poddar, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. C.L. MAHAR, MEMBER (TECHNICAL)

DATE OF HEARING/ DECISION: 3 March 2020

FINAL ORDER NO. 50688 / 2020

JUSTICE DILIP GUPTA

The appeal was filed on 9 September 2019 with inordinate delay. It was accordingly accompanied by an application for condoning the delay of 180 days.

2. The Registry sent a communication dated 16 September 2019 to the Appellant by registered post with acknowledgment due requiring the Appellant to remove certain

defects including the requirement of pre-deposit by 16 October 2019, on which date the appeal was to be listed before the Bench.

3. When the matter was taken up by the Tribunal on 16 October 2019, it was noticed that though the communication dated 16 September 2019 had been served upon the Appellant on 29 September 2019 and upon the learned counsel for the Appellant on 24 September 2019 but neither the Appellant nor its counsel appeared before the Bench nor the defects were removed. The matter was, however, in the interest of justice, adjourned to 26 November 2019 by which time the Appellant could remove the defects. When the matter was taken up by the Bench on 26 November 2019, it was noticed that the requirement of pre-deposit had been satisfied.

4. The Appellant was thereafter informed by a communication dated 12 December 2019 that was sent by registered post with acknowledgement due that the delay condonation application would be listed before the Tribunal on 14 January 2020. The track consignment report indicates that this envelope was served upon the Appellant on 21 December 2019 and upon the learned counsel for the Appellant on 20 December 2019.

5. On 14 January 2020 no one appeared on behalf of the Appellant to press the delay condonation application. The Bench, however, adjourned the matter to 3 March 2020.

6. Even, today no one has appeared on behalf of the Appellant to press the delay condonation application.

7. It is apparent from a reading of the delay condonation application that only casual statements have been made without any details or supporting documents. According to the Appellant, an accountant had been entrusted to file the appeal but since he had suddenly gone on leave, a new counsel was consulted. The Appellant has not stated as to how the Appellant acquired knowledge that the accountant had not filed an appeal. The Appellant has also not stated on which date the Appellant acquired knowledge that the appeal had not been filed by the accountant.

8. We are not impressed by the facts stated in the Application that the Appellant had been prevented by sufficient cause from filing the appeal within the stipulated period.

9. The Application is, accordingly, rejected. As the application has been rejected, the appeal stands dismissed.

(Dictated and pronounced in the open Court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(C L MAHAR)
MEMBER (TECHNICAL)

ARCHANA