CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH

CUSTOMS APPEAL No. 53793 OF 2018-CUS

(Arising out of Order-in-Appeal No. CC(A) CUS/D-I/ACC/IM Port/NCH/439-477/2018 dated 28/09/2018 passed by Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi)

Interglobe Aviation Ltd. ….. **Appellant**
Central Wing, Ground Floor,
Thapar House, 124 Janpath,
New Delhi-110001

VERSUS

Commissioner of Customs, New Delhi ….. **Respondent**
(Air Cargo, New Customs House,
IGI Airport, New Delhi-110037)

APPEARANCE:

Shri B.L. Narasimhan and Ms. Jyoti Pal, Advocate for the Appellant
Shri Sunil Kumar, Shri Rakesh Kumar, Authorized Representative of the Department

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

FINAL ORDER NO._50840_/2020

DATE OF HEARING/DECISION: September 10, 2020

JUSTICE DILIP GUPTA

This Appeal is directed against the order dated September 28, 2018 passed by the Commissioner of Customs (Appeals)[1] by which the Appeal has been dismissed for the reason that it had been filed beyond the period prescribed under section 128 of

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1 Commissioner (Appeals)

Customs Act, 1962[2]. The Commissioner (Appeals) has noted that an Appeal under section 128 of the Act is required to be filed within a period of 60 days from the date of communication of the order but it can be presented within a further period of 30 days if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the Appeal within the aforesaid period. The Commissioner (Appeals) noted that the present Appeal was presented even after the extended period of 30 days.

2. A Division Bench of this Tribunal in **Diamond Construction** vs. **Commissioner of Customs**, **Excise and Service Tax**, **Jabalpur**[3] has held that the Commissioner (Appeals) cannot condone any delay if the Appeal is presented beyond 30 days after the expiry of 60 days.

3. Thus, the Commissioner (Appeals) committed no illegality in dismissing the Appeal. This Appeal is liable to be dismissed and is, accordingly, dismissed.

(Order pronounced in the open Court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(C.L. MAHAR)
MEMBER (TECHNICAL)

Rekha

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2 The Act
3 2020 (35) GSTL 193 (Tri.- Delhi)