CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH - COURT NO. II

Excise Condonation of Delay Application No. 51019 of 2019
(on behalf of the appellant) with
Excise Appeal No. 52546 of 2019-SM
(Arising out of order in appeal No. BHO-EXCUS-002-APP-315-17-18 dated 13.10.2017 passed by the Commissioner (Appeals) Central Goods and Service Tax, Excise and Customs, Raipur).

Vijay Agrawal (Dir.) of **Appellant**
M/s Shri Shyam Ingot & Casting Pvt. Ltd.,
Plot No. 103, CSIDC, Phase-2 Siltara
Raipur, Chhattisgarh-493111.

VERSUS

Commissioner, Customs & Central Excise **Respondent**
Central Excise Building, Dhamtari Road, Tikrapara
Raipur-492001.

APPEARANCE:

Shri Bipin Garg, Advocate for the appellant
Shri Pradeep Gupta, Authorised Representative for the respondent

CORAM:

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

FINAL ORDER NO. 51765/2021

DATE OF HEARING/DECISION: 17.08.2021

ANIL CHOUDHARY:

Heard the parties on the condonation of delay application.

2. According to Revenue the impugned order in appeal dated 13.10.2017 which was despatched by speed post to the appellant on the same date by speed post sl. No. 155 having bar code No. EC 085199298 IN.

3. Learned Counsel appearing for the Revenue submits that the impugned order was not served upon them and it was only on or

about 15.05.2019 they came to know about the impugned order when the appellant received a communication from the Range Superintendent dated 13.05.2019 directing to pay the adjudicated dues alongwith interest etc. as the appeal before the Commissioner (Appeals) has been rejected vide order dated 13.10.2017. Thereafter, the appellant immediately vide letter dated 16.05.2019 approached the office of the Commissioner (Appeals) mentioning that they have not received the order. He further prayed for certified copy of the order. Further, it appears that the order-in-appeal was served on next date i.e. 17.05.2019 by hand, thereafter the appellant has filed the present appeal on 10.06.2019. He further stated that there are no deliberate latches or delay on the part of the appellant. That they have filed the appeal with due diligence soon after receipt of the impugned order. It is further stated that the appellant have not gained anything by delaying the filing of their appeal.

4. Learned Counsel for the appellant informs that Shri Vijay Agrawal have died in the recent past on 19.04.2021, and have also filed a copy of the death certificate dated 18.05.2021 issued by the Municipal Corporation, Raipur.

5. Learned Authorised Representative appearing for the Revenue relies on the ruling in the case of **Sunbeam Garments (P) Ltd., vs. Commissioner -2010 (256) ELT A90 (SC)**.

6. Having considered the rival contentions, I find that the delay has been reasonably explained, and there appears to be no

deliberate latches on the part of the appellant. Accordingly, the condonation of delay application is allowed.

7. As the appellant have died, this appeal abates. Accordingly, the appeal is also disposed of as abated.

(Dictated and pronounced in open Court)

(Anil Choudhary)
Member (Judicial)

Pant