

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH - COURT NO.III

Service Tax Appeal No. 55504 of 2023

[Arising out of Order-in-Appeal No.BHO-EXCUS-001-APP-306-22-23 dated 28.03.2023 passed by the Commissioner (Appeals), CGST and Central Excise, Bhopal (M.P.).]

M/s. Devendra Kumar Jain

Vishwanath Chouraha,
Near Majhar Jain Mandir,
Tikamgarh-472 001.

Appellant

VERSUS

**Commissioner of Central Goods &
Service Tax and Central Excise,
Bhopal, M.P.**

Respondent

APPEARANCE:

Shri Abhishek Jaju and Ms. Nikita Jaju, Advocates for the appellant.
Shri Arun Sheoran, Authorised Representative for the respondent.

CORAM:

HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)

FINAL ORDER NO.57974/2024

DATE OF HEARING/DECISION:02.08.2024

BINU TAMTA:

The Commissioner (Appeals) by the impugned order had rejected the appeal filed by the appellant on the ground that there was a delay of 2 days in filing the appeal.

2. Learned counsel for the appellant submits that the delay of 2 days in filing the appeal is a bonafide delay as the impugned order itself was of 24.03.2022 and since the date of the communication of the order is not available, it is reasonable to condone the delay of 2 days.

3. Learned Authorised Representative for the respondent appearing in the matter has apprised that the order was despatched by speed post, however, neither the date of despatch nor the receipt of the order is available.

4. The provisions of Section 35 of the Central Excise Act provides that limitation for filing an appeal before the Commissioner (Appeals) as 60 days from the date of the communication of the order, which is further extendable by a period of 30 days, on there being shown sufficient cause. Since the delay of 2 days is within the extended period and there is a justifiable reason to condone the same, the impugned order is set aside and the appeal is remanded back to the Commissioner (Appeals) for consideration of the matter on merits. The appeal is, accordingly allowed by way of remand.

[Order dictated & pronounced in open court]

(BINU TAMTA)
MEMBER (JUDICIAL)

Ckp.

