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

EXCISE APPEAL NO.52002 OF 2024

[Arising out of Order-in-Appeal No.282(AK) ST/JDR/2024 dated 3.7.2024 passed by the Commissioner (Appeals), Central Excise and CGST, Jodhpur]

M/s.Nitin Spinners Ltd., **....APPELLANT**
16-17, K.M. Stone, Hamirgarh,
Bhilwara-311 001.

Vs.

Commissioner of CGST & **.....RESPONDENT**
Central Excise Commissionerate,
New CGST Building, Sector-14, Hiran Magri,
Udaipur, Rajasthan-313 002.

Appearance:
Present for the Appellant :Ms. Shweta Jain, Advocate
Present for the Respondent:Shri Kuldeep Rawat, Authorised Representative

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

FINAL ORDER NO. 50506/2025

Date of Hearing :15/04/2025
Date of Decision :21/04/2025

BINU TAMTA:

1. Appellant is aggrieved by the impugned order[1], whereby the Commissioner (Appeals), rejected the appeal filed by the appellant on the ground of limitation, having been filed beyond the period of two months as specified under Section 85 of the Finance Act, 1994[2].

2. The Commissioner (Appeals) had noted that the impugned order no.02/ST/Refund/2022-23-D.C. dated 13.03.2023 was communicated

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[1] Order-in-Appeal No.282(AK) ST/JDR/2024 dated 03.07.2024
[2] Finance Act, 1994

to the appellant on 16.03.2023 and the appeal against the same was filed on 25.05.2023, which is beyond the period of two months from the date of communication. It has also been noted in the impugned order that the reason for delay in filing the appeal was due to serious medical emergency of the person responsible (GM Legal), and as a result, he was not attending the operations of daily working.

3. The provisions of Section 85(3A) prescribes the time limit for filing an appeal as two months from the date of the communication of the impugned order and which can further be extended by a period of one month, if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the period of two months. The legislature has consciously prescribed the extended period within which the appeal can be filed in the event the appellant is able to satisfy that there was sufficient reason which prevented him from filing the appeal within the prescribed period of two months. The medical reason of the GM Legal, which delayed the filing of appeal by 9 days is a justified and valid cause to condone the delay. The Commissioner should have taken a practical approach that GM Legal is the person who is responsible for taking all legal actions on behalf of the company and in his absence and that too on account of medical reasons, it is a sufficient cause for filing the appeal beyond the prescribed period of two months. The delay of 9 days is not enormous and falls within the buffer period within which the Commissioner (Appeals) has the jurisdiction to condone the delay and in that view, it is absolutely unjustified to dismiss the appeal on the ground of limitation.

4. In the facts and circumstances of the present case, the appellant has made out a bonafide case for condonation of delay and, therefore, the impugned order deserves to be set aside. The appeal is being remanded to the Commissioner to consider the same on merits after granting sufficient opportunity to the parties.

5. The appeal is, accordingly allowed by way of remand.

[Order pronounced on 21st April, 2025.]

(BINU TAMTA)
Member (Judicial)

Ckp.