

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Service Tax Appeal No. 50058 of 2024

[Arising out of Order-in-Appeal No. BHO-EXCUS-001-APP-137-23-24 dated 16.06.2023 passed by the Commissioner of Central Goods and Service Tax & Central Excise (Appeals), Bhopal]

Ajay Kumar Jain

Tilal Ward, Deori,
District Sagar,
Madhya Pradesh - 470226

...Appellant

VERSUS

**Commissioner of Central Excise
& CGST – Bhopal I**

48-A, Administrative Area,
Arera Hills, Bhopal,
Madhya Pradesh - 462011

...Respondent

APPEARANCE:

None for the Appellant
Shri Rohit Issar, Authorized Representative for the Department

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

DATE OF HEARING: 26.11.2025
DATE OF DECISION: 26.11.2025

FINAL ORDER NO. 51839/2025

S.K. MOHANTY

None appeared for the appellant, despite issuance of hearing notices by the registry on various occasions. I find that the matter was listed for hearing on 01.10.2024, 06.11.2024, 23.12.2024, 24.01.2025, 11.03.2025 and in all the occasions, the appellant did not present itself for hearing of the matter. This attitude on part of the appellant shows that he is not interested in pursuing his statutory right of appeal. Therefore, with the assistance of learned Authorized Representative appearing for the Revenue, the appeal is taken up for hearing today.

2. This appeal is directed against the impugned order dated 16.06.2023 passed by learned Commissioner (Appeals), Central Goods and Service Tax and Central Excise, Bhopal. In the impugned order, learned Commissioner (Appeals) has dismissed the appeal filed by the appellant on the ground that the appeal was filed beyond the statutory time limit prescribed in Section 85 (3A) of the Finance Act, 1994. With regard to the condonation of delay in late filing of appeal, he has held that no application was filed by the appellant, explaining the sufficient reason of delay for condonation. In support of the contention that he has no power to condone the delay in late filing of appeal, he has relied upon the judgment of Hon'ble Supreme Court in the case of **Singh Enterprises Vs. CCE, Jamshedpur reported in 2008 (221) ELT 163 (SC)**.

3. On perusal of the case records, I find that the adjudication order was received by the appellant on 10.03.2023 and thereafter, the appeal was filed before the Office of learned Commissioner (Appeals) on 05.06.2023. Insofar as, the time limit for filing of appeal before the Commissioner (Appeals) is concerned, it has been mandated in Section 85(3A) of the Finance Act, 1994 that an appeal shall be presented within two months from the date of receipt of the decision or order passed by the adjudicating authority. The proviso clause appended to sub-section (3A) of Section 85 provides that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of two months, allow it to be presented within a further period of one month.

Reading of the said statutory provision makes the position clear that the appeal is required to be filed within the prescribed time frame of two months from the date of receipt of the order passed by the adjudicating authorities. Though, the Commissioner (Appeals) is empowered to condone the delay up to a further period of one month, but for that purpose, the appellant has to show sufficient cause/reason for non-filing of appeal within such prescribed time limit. In the case in hand, paragraph 4 in the impugned order has specifically recorded that no application was filed by the appellant for condonation of delay. Since, the appeal was not presented within the prescribed time limit and no application was filed, seeking condonation of delay in late filing of appeal, in my considered view, the learned Commissioner (Appeals) has correctly rejected the appeal filed by the appellant as time barred.

4. Therefore, I do not find any infirmity in the impugned order passed by the learned Commissioner (Appeals) in rejecting the appeal filed by the appellant on the ground of limitation. Accordingly, the appeal filed by the appellant is dismissed.

[Dictated and pronounced in the open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)