

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

PRINCIPAL BENCH – COURT NO. – IV

**Customs Appeal No. 51252 of 2025**

[Arising out of Order-in-Appeal No. D-II/Import/ICD/TKD/735/2024-25 dated 30.03.2025 passed by the Commissioner of Customs (Appeals), New Delhi]

**M/s. Kianotec Industries Limited**

**...Appellant**

1395, 1<sup>st</sup> Floor, Sec-38,  
HSIIDC Rai Industrial Area,  
Haryana - 131029

*VERSUS*

**Commissioner of Customs (Impor)**

**ICD TKD – New Delhi**

**...Respondent**

New Customs House,  
Near IGI Airport,  
New Delhi - 110037

**APPEARANCE:**

Shri Sahil Grover, Director of the Company  
Shri Girijesh Kumar, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. S.S. GARG, MEMBER (JUDICIAL)**

**HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

DATE OF HEARING: 01.12.2025

DATE OF DECISION: 01.12.2025

**FINAL ORDER NO. 51934/2025**

**P.V. SUBBA RAO**

We have heard Shri Sahil Grover, Director of the appellant and Shri Girijesh Kumar, learned Authorized Representative for Revenue and perused the records.

2. Shri Sahil Grover submits that he is not contesting the re-determination of the value of the goods and the consequential demand of differential duty. His submission is that the appellant declared the transaction value as per invoices truthfully and correctly. The mere fact that the Joint Commissioner rejected the transaction value and re-determined the value under Rule 4 of the

Customs (Determination of Value of Imported Goods) Rules, 2007 does not mean that the appellant had mis-declared the value. Therefore, he submits that in terms of 111(m) of the Customs Act, 1962 the goods were not liable to confiscation. Consequently, there was no ground to impose the redemption fine of Rs.4 lakhs upon the appellant. For the same reason, he submits that the penalty imposed under Section 112 also needs to be set aside.

3. Shri Girijesh Kumar, learned Authorized Representative for the Revenue submits that the Commissioner (Appeals) did not examine the merits of the case but has dismissed the appeal of the appellant only on the ground of delay in filing the appeal before her.

Paras 5.3 and 5.4 of the impugned order read as follows:

"5.3. Before going into the merit of the case, I would like to examine as to whether the basic conditions for filing the appeal have been fulfilled or not. Section 128 of the Customs Act, 1962, provides as under:

Section 128. Appeals to Commissioner (Appeals) (Relevant Updates)

*(1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a Principal Commissioner of Customs or Commissioner of Customs may appeal to the Commissioner (Appeals) within sixty days from the date of communication to him of such decision or order:*

*Provided 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 sixty days, allow it to be presented within a further period of thirty days.*

5.4. In the instant case, I find that the impugned order was issued on 01.12,2022 and was dispatched on 05.12.2022. As per the application for condonation of delay filed by the appellant in the instant appeal, the impugned order has been received by them on 09.12.2022 and the instant appeal has been on 13.03.2023, i.e., after a period of 94 days. Thus, it is evident that the appeal has been filed beyond the prescribed time-limit for filing the appeal and beyond the condonation limit as well, because as per statute, I am vested with no powers to condone delay beyond thirty days on any ground."

4. Shri Sahil Grover submits that there was an error in the application for condonation of delay filed by the appellant before Commissioner (Appeals) and it was wrongly mentioned that the order of the Joint Commissioner was received on 09.12.2022 whereas it was actually received only on 12.12.2022. He refers to copy of the proof of delivery by the speed post placed at page 35 of the appeal. This document shows that the order of the Joint Commissioner was delivered only on 12.12.2022. The appeal before the Commissioner (Appeals) was filed on 13.03.2023, i.e., after 91 days from the date of receipt of the order of Joint Commissioner. Shri Grover further submits that the Commissioner (Appeals) has the power to condone delay of 30 days beyond the normal limit of 60 days. Therefore, had the appeal been filed by 12.03.2023, before the Commissioner (Appeals) the delay could have been condoned. He draws attention of the bench to the fact that 12.03.2023 was a Sunday. He, therefore, submits that the appeal was filed on 13.03.2023 which was the next working day. He, therefore, submits that the delay may be condoned. As for the reasons for delay in filing the appeal before Commissioner (Appeals), he submits that his father was unwell during the period and the advocate who was engaged by them also took time in preparing and filing the appeal.

5. Having considered the rival submissions, we find that as the 90 days period within which the delay could have been condoned ended on 12.03.2023 (Sunday) and the appeal was filed on the next working day, 13.03.2023, it was beyond the normal period of

limitation but was within the condonable limit of 30 days. We also find the reasons given for the delay in filing the appeal satisfactory.

6. In view of the above, we condone the delay and remand the matter to the Commissioner (Appeals) to decide the question of redemption fine and penalty on merits. The appeal is allowed by way of remand.

[Dictated and pronounced in the open Court]

**(S.S. GARG)**  
**MEMBER (JUDICIAL)**

**(P.V. SUBBA RAO)**  
**MEMBER (TECHNICAL)**

*HK*