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

E-Hearing

Service Tax Appeal No.52208 OF 2021

[Arising out of Order-in-Appeal No.279(SM)/ST/JPR/2021 dated 16.08.2021 passed by the Commissioner (Appeals), Central Excise and Central Goods & Service Tax, Jaipur]

Mr. Avinash Joshi,
HE-227, Sarayu Marg,
Hanuman Nagar Extension,
Jaipur Rajasthan-302 012.,

....APPELLANT

Versus

Commissioner of Central Goods & Service Tax Commissionerate
Central Excise & CGST Jaipur,
Rajasthan, New Central Revenue
Building, Statue Circle, C-Scheme,
Jaipur (Rajasthan)

.....RESPONDENT

Appearance:
Present for the Appellant : Shri Safal Sethi, Advocate
Present for the Respondent: Shri Rajeev Kapoor, Authorised Representative.

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Final Order No.50725 /2026

Date of Hearing/Decision:09.04.2026

BINU TAMTA:

1. Challenge in the present appeal is to Order-in-Appeal[1], whereby the learned Commissioner has dismissed the appeal as time barred.

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[1] No.279(SM)/ST/JPR/2021 dated 16.08.2021

2. The submission of the learned Counsel is that the order-in-original was passed on March 14, 2019, however, the said order was received by them on 15.05.2020 and the appeal was thereafter filed on 23.09.2020. The period of the receipt of the order i.e. May 15, 2020 was under COVID-19 and the Hon'ble Supreme Court has extended the limitation in respect of the matters falling during the COVID period.

3. From the impugned order at para 6.2, we find that the Commissioner has taken note of the letter dated July 9, 2021 to say that the impugned order (Order-in-Original) was sent to the appellant on March 15, 2019 through speed post (ER004229638IN), which was not returned back undelivered. In the circumstances, the learned Commissioner has taken it to be a case of deemed service as nothing contrary was put forth by the appellant to show that the order was not served upon them. We do not agree with the findings recorded. Section 37C provides for service of decisions, orders, summons, etc. by tendering the order or serve it by registered post with acknowledgement due or by speed post with proof of delivery. In the absence of proof of delivery, it cannot be said that the Department has served the copy on the appellant.

4. Secondly, during the period May 20, 2020, when the order was received till the filing of the appeal on September 23, 2020, the order of the Supreme Court was in operation whereby the limitation stood extended. Hence, there is no delay in filing the appeal before the Commissioner.

5. We, therefore, set aside the impugned order and remand the matter back to be considered on merits. The appeal is allowed by way of remand.

[Operative portion of the order already pronounced in open court]

(BINU TAMTA)
MEMBER (JUDICIAL)

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

Ckp.