CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 2

SERVICE TAX APPEAL NO. 50042 OF 2023

(Arising out of Order-in-Appeal No. BHO-EXCUS-01-APP-240-21-22 dated 25.03.2022 passed by the Commissioner (Appeals-I), CGST, Jaipur)

M/s N K Singh **...... Appellant**
Prop. Narendra Kumar Brij singh
NCC Office Campus, Pandav Nagar,
Behind Railway Station, Shahdol,
Madhya Pradesh

Versus

Commissioner of Central Excise & CGST, Jabalpur **...... Respondent**
Madhya Pradesh

APPEARANCE:
Shri Arya Bhatt, advocate for the appellant
Shri Anand Kumar, authorised representative for the department

CORUM:
HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

DATE OF HEARING/DECISION: July 20, 2026

FINAL ORDER NO. 51261/2026

MR. ASHOK JINDAL:

The appellant has filed this appeal against the order of learned Commissioner (Appeals) who dismissed their appeal as time barred in terms of section 85(3)(a) of the Finance Act, 1994.

2. The facts of the case are that the adjudication order passed by the adjudicating authority on 31.10.2018, which was received by the appellant on 22.11.2018 and against the said order, the appellant filed an appeal before the learned Commissioner (Appeals) on 14.06.2021. The claim of the appellant is that they have not received the adjudication order but we find that while serving the adjudication order on the appellant, a panchnama was drawn on 22.11.2018 and as per the said panchnama the said order has been put up in the office of the adjudicating authority showing that as the postal remark says that the appellant has left, therefore, in terms of section 37(c) of the Central Excise Act, 1944, the adjudication order was put up on the notice board.

Therefore, there was sufficient compliance of the adjudication order on the appellant. Against the said order the appellant is before us.

3. The learned counsel for the appellant submits that as the appellant has left the place in 2012 itself and they were not served upon neither the show cause notice nor adjudication order and they did not participate in the adjudication proceedings. In that circumstances, they have not received the adjudication order and they came to know about the passing of the adjudication order through bank when some attachment order was passed. Thereafter, they approached the adjudicating authority and obtained the copy of the adjudication order and filed the appeal before the learned Commissioner (Appeals) in time. In that circumstances, learned Commissioner (Appeals) is required to entertain the appeal and was not required to dismiss the appeal as time barred. Therefore, he prayed that the impugned order be set aside and the matter be remanded back to the learned Commissioner (Appeals) to pass the order on merits.

2. On the other hand, learned authorised representative for the department drew our attention to the impugned order and said that the adjudication proceedings took place and thereafter, adjudication order was passed on 31.10.2018. The same was served to the appellant through post which was returned back undelivered with postal remarks left. Then in terms of section 37(c)(ii) the order was put on the notice board with two panchas which certified that the said adjudication order was put on the notice board in terms of section 37(c)(ii). Therefore, the adjudication order was served on the appellant. In that circumstances learned Commissioner (Appeals) rightly dismissed the appeal as time barred.

3. Heard the parties. Considered the submissions.

4. We have gone through the record placed before us. The claim of the appellant that they have shifted to the new place and they did not

receive any adjudication order or to show cause notice but while filing the appeal before the learned Commissioner (Appeals), in their appeal memo they have mentioned their address for communication as under:

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5. We have seen that in the show cause notice as well as in the adjudication order, the same address is mentioned by the authorities below and the appellant also sought communication at the same address..

6. In that circumstances, the claim of the appellant that they have not received the order cannot be believed. In fact, the adjudication order was served on the appellant on their same address although it came back undelivered with remarks left but the same was also put on the notice board. Therefore, the adjudication order was duly served on the appellant.

7. In that circumstances, the appeal filed by the appellant before the learned Comissioner (Appeals) on 14.06.2021 is highly time barred. Therefore, the learned Commissioner (Appeals) has righly dismissed their appeal is barred by limitation.

8. In that circumstances, we do not find any infirmity in the impugned orders the same is upheld. The appeal filed by the appellant is dismissed.

(Order dictated and pronounced in open court)

(MR. ASHOK JINDAL)
MEMBER (JUDICIAL)

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

Apoorva