CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 3

SERVICE TAX APPEAL NO. 55201 OF 2023

[Arising out of Order in Appeal No. 264(RLM) ST/JPR/2022 dated 02.12.2022 passed by the Commissioner, Central Goods and Service Tax (Appeals), Jaipur]

SANJAY SAHA **....APPELLANT**

Propreitor M/s Sanjay Enterprieses
6/115, B-Block, UTI Colony
Bhiwadi, Alwar, Rajasthan-301019

Vs.

COMMISSIONER, CENTRAL EXCISE & CGST-ALWAR **......RESPONDENT**

A Block Surya Nagar,
Alwar-301001

Appearance:
Present for the Appellant : Shri G.G.Gupta, 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. 51285 /2026

Date of Hearing /Decision: 31/07/2026

BINU TAMTA

1. The present appeal has been filed challenging the order-in-appeal no. 264(RLM) ST/JPR/2022 dated 2.12.2022 dismissing the appeal as being time barred. Learned Commissioner in the impugned order referring to the provisions of section 85(3A) of the Finance Act, 1994, observed that the order-in-original dated 30 August, 2019 was dispatched on the same date itself, however, the appeal has been filed on July 12, 2021.

2. Learned counsel for the appellant submits that the order-in-original was received by them on 16.06.2021 thereafter the appeal has been filed on July 12, 2021 which is well within the extended period. We found that in so far as the receipt of the order-in-original is concerned, the department has not placed on record any evidence and in that view, there is no proper evidence of service of the order-in-original on the appellant. Section 37C of CEA provides for service of decisions/ orders by registered post with acknowledgment due or by speed post with proof of delivery and since the Revenue has not been able to prove service in the manner prescribed, the benefit thereof has to be given to the appellant.

3. The impugned order is, therefore, set aside and the matter is remanded to the Commissioner (Appeals) to consider the same on merits. The appeal is allowed by way of remand.

(Order dictated and pronounced in open court)

(BINU TAMTA)
MEMBER (JUDICIAL)

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

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