

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI
PRINCIPAL BENCH, COURT NO. IV**

**Appeal No. E/52797/2016-EX [SM]
(Misc. Application No. E/COD/51623/2016]**

[Arising out of Orders in Appeal No. 16-CE/MRT-II/2013 dated 28.02.2013, passed by the Commissioner (Appeals), Central Excise & ST, Meerut.]

For approval and signature:

Hon'ble Mr. V. Padmanabhan, Member (Technical)

M/s. Aparajita Enterprises

....Appellant

vs.

CCE & ST, Meerut

....Respondent

Appearance:

Shri R.M. Saxena, Advocate for the Appellants
Shri , AR for the Respondent

CORAM:

Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing: 06.01.2017

FINAL ORDER NO. 50297 / 2017

Per V. Padmanabhan

The present misc. application has been filed for condonation of delay of 1174 days in filing the appeal against the impugned order dated 28.02.2013.

2. Shri R.M. Saxena, Id. Advocate appearing for the applicant- appellant submits that the delay has happened since the appellant had made arrangements with Shri Anurag Kashyap who was appointed locally at Kashipur and given the responsibility of preparing and filing the appeal against the impugned order. He further submits that Mr. Kashyap has failed to file the appeal. Subsequently, when the department issued notice for recovery of dues,

they realized that the concerned appeal has not been filed. For the above reasons, the present appeal has been filed with 1174 days delay. He submits that in the interest of justice, the delay may be condoned and the appeal is admitted.

3. Ld. DR strongly opposed the said condonation of delay. He submits that the delay of more than three years indicate that the appellant is not serious in pursuing the appeal and hence he prays that the delay may not be condoned.

4. The responsibility of filing the appeal rests with the litigant. In the present case, there is no plea that the impugned order is received with any delay at the hands of the applicant- appellant. Such a huge amount of delay is attributed to the earlier counsel who apparently failed to file the appeal after being entrusted with the same. I am not satisfied for condoning the delay of 1174 days. The delay to this extent indicates that the appellant has not taken proper steps to file the appeal. It shows gross negligence on the part of the applicant-appellant. As such, the misc. application for condonation of delay is dismissed along with the appeal.

[Dictated and pronounced in the open Court]

(V. Padmanabhan)
Member (Technical)