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

Application No. C/COD/51815/2016-CU(DB)
Appeal No. C/53156/2016-CU(DB)

[Arising out of Order-in-Appeal No. 01/KJ/PR.COMMR/2016 dated 13.01.2016, by the Commissioner of Customs, Central Excise & Service Tax (Appeals), New Delhi].

M/s. Tahir Star **....Applicants**

Vs.

C.C.E. New Delhi **....Respondent**

Appearance:

Shri B.L. Garg, Advocate for the Appellant
Shri K. Poddar, DR for the Respondent

CORAM:
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Date of Hearing: 01.03.2017

FINAL ORDER NO. 52249/2017-CU(DB)

Per Archana Wadhwa:

The Miscellaneous Application has been filed for condonation of delay of 248 days in filing the present appeal.

2. After hearing both the sides, we find that order in original was passed on 13.01.2016 and was received by the appellant on 18.01.2016. As such the normal period of limitation for filing the appeal expired on or around 18.04.2016. Whereas the appeal has been filed on 22.12.2016 with a delay of 248 days.

3. Explaining the delay, the Ld. Advocate appearing for the appellant submits that as relied upon documents were not supplied along with the order passed by the original adjudicating authority,

the appeal could not be filed by them well within the time. On being questioned as to when they applied for RUD the Ld. Advocate admitted that the same was filed for the first time on 27.12.2016. As such, we note that the appellant wrote letter to the department for the supply of the documents much after the expiry of limitation period.

4. Ld. Advocate's reliance on the Tribunal's judgment in the case of ***Praveen Singh Patwal Vs. CCE Delhi 2016 (344) ELT 900 (Tri Del)*** is not appreciated in as much as in the said decision, it was observed that the appellant was corresponding with the Revenue for the supply of RUDs throughout the period of delay and in as much as the RUDs were not supplied by the Department the delay occurred. In the instant case, as already observed the appellant applied for RUDs long after the expiry of the limitation period.

5. We are aware that a liberal approach is required to be adopted for condoning the delay, provided delay is not on account of culpable negligence or deliberate or malafide intention. In the present case, the appellant has not been able to provide any bonafide reasons for not challenging the impugned order well within the period of limitation. Such a long delay of 248 days advanced the vested right of the Revenue and cannot be condoned for the mere asking without there being any justifiable reasons for such delay. There is to be some causable explanation for the delays, not attributable to the latches on the part of the applicant. If the delay is merely to be condoned on the ground that nobody gets

benefitted from such delay then every delay whatever may be the length of the delay is required to be condoned. In the absence of any justifiable reason advanced by the appellant to condone such a huge delay of 248 days we find no reasons to condone the same.

6. Accordingly, COD application is rejected. As a result, appeal also gets dismissed on the ground of limitation.

[Operative part of the order Pronounced in the open Court]

(B. Ravichandan)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

Bhanu