

CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –III

Customs Appeal No.C/372/2011-CU [DB]

[Arising out of Order-in-Appeal No.CC(A)/ICD/120/11 dated
01/04/2011 passed by the Commissioner of Customs, New Delhi]

Charanjeet Singh

...Appellant

Vs.

C.C., New Delhi

... Respondent

Present for the Appellant : None

Present for the Respondent: Ms. Suchitra Sharma, D.R.

**Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. ASHOK K. ARYA, MEMBER (TECHNICAL)**

Date of Hearing/Decision: 14/02/2017

FINAL ORDER NO. 53527/2017

PER: S.K. MOHANTY

This appeal is directed against the impugned order dated 01.04.2011 passed by the Commissioner of Customs (Appeals), New Delhi, wherein appeal filed by the appellant before him was rejected on the ground that the same was filed after 93 days from the date of communication of the adjudication order.

2. None appeared for the appellant, despite notice. Heard the Id. D.R. for Revenue.

3. Section 128 of the Customs Act, 1962 provides for filing of appeal before the Commissioner (Appeals). It has been mandated that the appeal should be filed within 60 days from the date of communication of the decision or order. The proviso clause appended to Section 128 *ibid* empowers the Commissioner (Appeals) to condone the delay for a further period of 30 days in presenting the appeal before him. On a conjoint reading of Section 128 *ibid* and the proviso appended thereto, it reveals that the Commissioner (Appeals) is not statutorily empowered to condone the delay in filing appeal, if the same is filed beyond the period of 90 days. In the present case, since the appeal was filed on the 93rd day from the date of communication of the adjudication order, the same is clearly barred by limitation of time and the Commissioner (Appeals) is not empowered to condone such delay.

4. Therefore, we do not find any infirmity in the impugned order in rejecting the appeal of the appellant on the ground of limitation. Accordingly, the appeal filed by the appellant is dismissed.

[Operative part pronounced in the open Court]

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita