IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order: 8.1.2018

Appeal No. E/51330/2017-DB

(Arising out of Order-in-Appeal No. BHO-EXCUS-01-APP-764 & 765-16-17 dated 21.3.2017 passed by the Commissioner, Customs, Central Excise & Service Tax, Bhopal)

M/s Kudgi Transmission Ltd. Appellant

Vs.

CCE & ST, Bhopal Respondent

<u>Appearance</u>

Shri Nikhil Gupta, Advocate - for the appellant
Shri Vinayak Mathur, Advocate

Shri S.K. Bansal, D.R. - for the respondent

CORAM:**Hon'ble Mr. Justice (Dr.) Satish Chandra, President**
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No. 50136/2018

Per **Justice Dr. Satish Chandra :**

The present appeal is filed against the Order-in-Appeal No. 764-765/2016-17 dated 21.3.2017, where the appellant has claimed the refund. The same was denied on the ground of limitation. Being aggrieved, the appellant has filed the present appeal.

2. With this background, heard Shri Nikhil Gupta, Shri Vinayak Mathur and Shri S.K. Bansal, ld. Counsel for the parties.

3. After hearing both the parties and on perusal of record, it appears that the Commissioner (Appeals) in his order in para 4 observed that :

> "From the case records it is also seen that the appellant has not produced any evidence to claim this protracted delay in the so called 'date of purchase'. Perusal of the case records purports to the conclusion that this is an afterthought by the appellant to show that the sanctity of the relevant date is maintained."

4. During the course of arguments, ld. Counsel for the appellant submits that necessary information was though submitted but can again be submitted to the satisfaction of the authority below. According to his submission, there is no delay and the same can be proved before the lower authority. When it is so, then we set aside the impugned order and remand the matter to the appellate authority to decide the issue of limitation de novo but by providing a reasonable opportunity to the appellant. Fresh evidence, if need be, may be admitted as per law.

5. In the result, appeal is allowed by way of remand.

(Dictated & pronounced in open Court)

(V. Padmanabhan) Member (Technical)	(Justice Dr. Satish Chandra) President

RM