CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

<u>COURT-I</u>

Date of hearing/decision: 17.01.2018

C/MISC/51055/2017
C/51943/2017

[Arising out of Order-in-Appeal No.-CC-A-CUS-D-I-EXPORT-NCH-251-252-2017 Dated 30/06/2017 Passed by Commissioner of CUSTOMS(EXPORT)-DELHI - I(Appeal)]

R.M. Controls Pvt. Ltd. … Appellant

Vs.

CC, New Delhi … Respondent

Appearance:
Present Mr. Amit Kumar Atri, Advocate for the appellant
Present Mr. R.K. Majhi, DR for the respondent

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

<u>FINAL ORDER No. 50265/2018</u>

<u>Per Justice Dr. Satish Chandra</u>

1. The present appeal is filed against the Order-in-Appeal No. 251-252/2017 dated 30/06/2017.
2. The brief facts of the case are that the appellant has not fulfilled the export obligation at the time of adjudication. The EODC Certificate issued by the DGFT was not produced before the lower authority, so the duty demand was made.
3. The Commissioner (Appeal) has rejected the appeal on the technical grounds that a mandatory pre-deposit at the rate of 7.3 per cent has not been made. Further, the Commissioner (Appeal) observed that the appeal is time barred.
4. Being aggrieved, the appellant has filed the present appeal.
5. With this background heard Shri Amit Kumar Atri, Ld. Counsel for the appellant and Shri R.K. Majhi, Ld. DR for the Revenue.

6. After hearing both the sides and on perusal of record, it appears that the appellant had changed the office as well as the factory so, the communication sent by the Department was not received well in time. He has produced the copy regarding the change of address. To our mind, it is a reasonable cause for condoning the delay.

7. During the course of arguments, both the parties have agreed that the appellant has already made the pre-deposit which was not noticed by the Commissioner (Appeal).

8. During the course of hearing, Ld. Counsel also has provided the copy of the EOCD certificate issued by the DGFT where it is mentioned that they have fulfilled the export obligation.

9. In view of above, we set aside the impugned order and remand the matter to the adjudicating authority to examine the genuineness of the certificate issued by the DGFT and decide the case on merit but by providing reasonable opportunity to the appellant. Fresh evidence/ Additional evidence, if need be, may be, admitted as per law.

10. In the result, appeal filed by the appellant is allowed by way of remand. Miscellaneous Application is also disposed of.

[Order Dictated and Pronounced in the open court]

(V Padmanabhan)
Member (Technical)

(Justice Dr Satish Chandra)
President

Rekha