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

COURT NO. I

DATE OF HEARING : 19/01/2018.
DATE OF DECISION : 19/01/2018.

Service Tax Appeal No. 2245 of 2012

[Arising out of the Order-in-Original No. 36 (ST)/RPR-I/2012 dated 27/04/2012 passed by The Commissioner, Central Excise & Customs, Raipur.]

M/s Bharat Sanchar Nigam Ltd. Appellant

Versus

CCE & ST, Raipur Respondent

Appearance

Shri Samdarshi Sanjay, Advocate - for the appellant.

Shri Sanjay Jain, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri Justice Dr. Satish Chandra, President**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 50355/2018 Dated : 19/01/2018

Per. B. Ravichandran :-

This appeal is against order of Commissioner (Appeals) dated 27/04/2012. By the said order, the Commissioner (Appeals) dismissed the appeal of the appellant only on limitation. He recorded that the original order dated 30/03/2007 was dispatched by registered post on 04/04/2007. Again the appellant were given a copy of order on 11/12/2007. The appeal before the Commissioner (Appeals) was filed on 12/03/2012. After examining the fact of delivery of original order and noting that there is a long delay of 4 years 11 months in filing the appeal before him, the Commissioner (Appeals) declined to examine the merits of the case and dismissed the appeal on limitation alone.

2. We have heard the learned Counsel for the appellant and the learned AR for Revenue. The learned Counsel submitted that the office of the appellant and the officers working there were shifted to another premises resulting in certain dislocation and delay in communication of various official correspondence. Considering the genuine reason he pleaded the matter may be taken up for decision on merit.

3. We note that the statutory time limit prescribed for filing appeal before the Commissioner (Appeals) in terms of Section 85 of Finance Act, 1994 has to be complied with by the appellant without deviation. No authority has got the power to condone the delay as prescribed under the said section. This much has been categorically held by the Hon'ble Supreme Court in **Singh Enterprises – 2008 (150) ECR 1 (S.C.)**. The said ratio has been consistently followed by various High Courts and by this Tribunal in deciding the case of limitation in filing before the Commissioner (Appeals).

4. In view of the clear legal position, as above, we find that the Commissioner (Appeals) is correct in dismissing the appeal and we are not in a position to interfere with the said legal finding. Accordingly, the appeal is dismissed.

(Order dictated and pronounced in the open court.)

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

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