

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT – IV

Excise COD Application No. E/COD/50963/2018 in
Excise Appeal No. E/52689/2018 [SM]

[Arising out of Order-in-Appeal No. 16-AG-CE-JDR-2017 dated 21/12/2017 passed by the Commissioner Of CGST & Central Excise, Udaipur]

Vandana Tiles Pvt. Ltd. **...Appellant**
C E & ST, Udaipur **...Respondent**

Vs.

Present for the Appellant : Ms. Rinki Arora, Advocate
Present for the Respondent: Mr. P.R. Gupta, DR

Coram: HON'BLE MRS. RACHNA GUPTA, MEMBER (JUDICIAL)

Date of Hearing/Decision: 03.12.2018

FINAL ORDER NO. 53363/2018

PER: RACHNA GUPTA

Arguments on the Applicant praying for condonation of delay heard.

2. It is submitted that the order under challenge dated 21.12.2017 was received by appellant on 02.01.2018. The Appeal of the applicant was dismissed by the said Order of Commissioner(Appeals). It is impressed upon that the consultant of the applicant mis-guided the applicant/ appellant about it to no more be succeeding before the Tribunal. Also, due to the financial hardship the Appeal was not pursued. It is after 9 cases of appellants that have been decided in favour of the appellants therein, that the applicant got inspired and filed the present

Application. The delay is impressed upon to be due to aforesaid reason. Application is accordingly prayed to be allowed.

3. While rebutting these arguments, Ld. DR has submitted that delay herein is as many as of 164 days. The reason quoted is absolutely not reasonable for the application to be allowed.

4. After hearing both the parties, I am of the opinion that the intention of the principles of limitation is to fix a time limit to every litigation. The objective is not to waste the time of the litigants also to save precious public time. In the present case, apparently and admittedly, the applicant was not inclined to file the Appeal. It was only when the impugned issue in some of the cases has been decided in favour of the appellants/assesseees therein that the applicant made up his mind to pursue the impugned Appeal. There is nothing apparent which could have prohibited or restrained the appellant to file the Appeal in hand in time. Though financial hardship is taken as a ground, but to my opinion, in the given facts and circumstances, same is not reasonable.

5. It is the settled law in plethora of judgments that delay even of single day has to be explained beyond reasonable doubts. Word 'sufficient cause' as used in the principles of limitation being derived out of Section 5 of the Limitation Act have to be construed strictly in absence of any apparent reasonable cause. Seeing the totality of the discussion, Application in hand is hereby dismissed.

[Dictated and pronounced in the open Court]

(RACHNA GUPTA)
MEMBER (JUDICIAL)

D.J.