IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

BENCH-DB

COURT – IV

Service Tax COD Application No. ST/COD/51221/2018 in

Service Tax Appeal No. ST/53626/2018 [DB]

[Arising out of Order-in-Appeal No. 156(AK)ST/JPR/2016 dated 28.04.2016 passed by the Commissioner(Appeals), CGST, Central Excise & Customs, Jaipur]

Superintendent of Police **...Appellant**

Vs.

C.E. & S.T., Udaipur **... Respondent**

Present for the Appellant : Ms. Rinki Arora, Advocate
Present for the Respondent: Mr. R.K. Majhi, DR

Coram: HON'BLE MR. V.PADMANABHAN, MEMBER (TECHNICAL)
HON'BLE MRS. RACHNA GUPTA, MEMBER (JUDICIAL)

Date of Hearing/Decision: 04.02.2019

FINAL ORDER NO. 50216/2019

PER: RACHNA GUPTA

Arguments upon Application praying for condonation of delay in filing the Appeal heard.

2. Mr. Himanshu Bansal, Ld. Advocate appearing for the applicant has mentioned that the impugned Appeal has to be filed against the Order No. 156 dated 28.04.2016 confirming the demand of service tax of Rs. 50,019/- and ordering its recovery alongwith the interest and penalty. It is submitted

that appellants are Department of Government of Rajasthan with no exposure to service tax related laws due to which the Department took time for Appeal to be finalised for being presented before this Tribunal. It is submitted that the merits otherwise support the appellant. Relying upon **Anantnag Vs. Kataji 28 E.L.T. 185 (S.C.)**, the appellant has prayed for the Application to be allowed. It is also emphasised that the cause mentioned above may be considered as sufficient. Case of **West Bengal Vs. Administrator Hawda Municipality AIR 1972 (S.C.) 749** has been relied upon.

3. Per contra, Ld. DR has submitted that there can be no pleading to ignorance of law. Government Department are rather more duty bound for observing and following the law. Otherwise also the preamble attached to the Order as being sent to the assessee contains all details specifically about the time limit during which Appeal may be preferred by the aggrieved party. Resultantly, delay as many as that of 780 days cannot be contained merely on this account.

4. After hearing both the parties, we are of the opinion that law of limitation though may harshly affect particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable ground. It was appreciated by Hon'ble Apex Court in the case of **P.K. Ramachandran Vs. State of Kerala 1997 (7) SCC 556**. In a prior decision, in the case of **Katari Surya Narayan Vs. K. Subbarao AIR**

2009 S.C. 2907 where the Hon'ble Apex Court has construed the ambit scope and application of expression "sufficient cause" by holding that words "sufficient cause" should be understood in legal, pragmatic and liberal manner so as to advance the substantial justice but only in the cases where delay is not on account of dilatory tactics, for want of bonafides, deliberate inaction or negligence on part of the appellant. Above all it is equally settled principle of law that the provisions of statute including several words have to be given full effect keeping the legislative intent in mind in order to ensure that the projected object is achieved. In other words, no provisions can be treated to have been enacted purposelessly. It is therefore that the settled cannon of interpretative jurisprudence is that court should not give such an interpretation to the provisions which would render the provision ineffective or odious.

4. Coming to the facts of the present case, it is observed that the Order to be challenged was announced on 28.04.2016. No doubt, the applicant has attached a date sheet showing the time taken in getting sanction to file the Appeal. But perusal thereof is sufficient to hold that the appellant's Department has acted absolutely with negligence while dealing with the matter of filing the Appeal for which a specific statutory period is provided. Ignorance of law is no excuse. Otherwise also as far as information about period of limitation for final appeal is concerned, the same is very much available on the preamble of

the Order. It was mandatory even for the Government Department to be careful about that statutory time limit. The date sheet produced on record rather reflects the casual and negligent attitude of the appellant which is highly unappreciable for a Government Department. Even under the name of administrative constraints, the delay of 780 days is not sufficiently explained. Keeping in view the entire above discussion, we are of the opinion that the case law as referred by the appellant is not applicable to the given facts and circumstances. The Application in hand is hereby dismissed for want of any reasonable explanation or sufficient cause shown for delay of more than two years rather for the apparent negligence on part of the appellant. Resultantly, the Appeal stands dismissed.

[Dictated and pronounced in the open Court]

(V.PADMANABHAN)
MEMBER (TECHNICAL)

(RACHNA GUPTA)
MEMBER (JUDICIAL)

D.J.