

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL, KOLKATA  
EASTERN ZONAL BENCH: KOLKATA**

**Miscellaneous Application No.MA(COD)76094/17  
&  
Appeal No.ST/76758/17**

(Arising out of Order-in-Appeal No.135/ST/KOL/2011 dated 03.05.2011 passed by the Commissioner of Central Excise(Appeal-I), Kolkata.)

M/s. Gorkha Securities

Applicant (s)/Appellant (s)

**Vs.**

CST, Kolkata

Respondent (s)

Appearance:

Shri Piyal Gupta, Advocate and Shri Akshay Sarangi, Advocate for the Appellant (s)

Shri A.K.Biswas, Supdt.(AR) for the Respondent (s)

**CORAM:**

**HON'BLE SHRI JUSTICE (DR.) SATISH CHANDRA, PRESIDENT  
HON'BLE SHRI C.J.MATHEW, MEMBER(TECHNICAL)**

Date of Hearing/Decision :- 22.03.2018

ORDER NO.MO/75429/2018, FO/75567/2018

**Per Shri Justice (Dr.) Satish Chandra.**

Present appeal is filed against the impugned Order-in-Appeal No.135/ST/KOL/2011 dated 03.05.2011. The appeal is time barred by 3221 (three thousand two hundred and twenty one) days. By the COD the appellant has made a request to condone the delay.

2. During the course of argument Shri Piyal Gupta, Id.Counsel submits that the appellant has filed a Writ Petition before the Hon'ble

High Court of Calcutta (W.P. No.492/2011) where the Hon'ble High Court vide order dated 15.06.2017 has allowed the withdrawal of the Writ Petition with the liberty to raise all the points before the forum where the appeal is pending. In the said order it is stated by the Id.Counsel that appeal is pending before CESTAT. But fact remains that on that very day no appeal was pending before CESTAT.

3. From the record, it appears that only on 21.09.2017, much after the order passed by the Hon'ble High Court of Calcutta, the present appeal is filed before the CESTAT. Thus it is evident that the appellant has misguided the Hon'ble High Court by giving a false statement, which attracts proceedings under the Contempt of Court Act. Unfortunately, the Tribunal has no power under the Contempt of Court Act.

4. In view of the above, without saying much, we reject the application for condonation of delay. Consequently, the appeal filed by the appellant is dismissed.

(Dictated and pronounced in the open court.)

Sd/  
**(C.J.Mathew)**  
**Member(Technical)**

sd/  
**(Justice Dr. Satish Chandra)**  
**President**

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