IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
EAST REGIONAL BENCH : KOLKATA

Ex.Appeal No.75847/2018

Arising out of O/A No.343/HWH/CE/2017-18 dated 29.11.2017 passed by Commr. of CGST & Central Excise (Appeals), Kolkata

M/s Gillanders Arbuthnot & Company Ltd.

...APPELLANT(S)

VERSUS

Commr. of CGST & Central Excise, Howrah

RESPONDENT (S)

APPEARANCE

Shri Tapan Kr.Roy & Shri Kumar Sundar Roy, both Consultant for the Appellant (s)
Shri A. Roy, Supdt.(A.R.) for the Revenue

CORAM:

SHRI P. K. CHOUDHARY, HON'BLE JUDICIAL MEMBER

DATE OF HEARING/DATE OF DECISION : 30. 05. 2018

ORDER NO.F/O/76203/2018

Per Shri P. K. Choudhary :

The present appeal is filed by the appellant against the Order-in-Appeal No.343/HWH/CE/2017-18 dated 29.11.2017 passed by Commr. of CGST & Central Excise (Appeals), Kolkata.

2. Heard both sides and perused the appeal records.

3. After hearing both sides, I find that the lower appellate authority has rejected the appeal filed by the assessee on the ground of limitation of time. I find that the Order-in-Original dated 10.08.2016 was received by the assessee on 25.08.2016 and they were required to file the appeal before the lower appellate authority on or before

25.10.2016. But the appeal was filed before the Ld. Commissioner (Appeals) only on 28.10.2016 i.e. after a delay of 3 days. They have filed an application for condonation of delay before the Commissioner (Appeals), which was not accepted by him and he dismissed the appeal without going into the merits of the case.

4. On going through the impugned order, I find that the present appeal was filed by the appellant beyond the statutory period of 60 days but within the condonable period. I also find that the ld. Commissioner (Appeals) has not decided the issue on merit, but dismissed the same as time barred. In view of the above, the delay in filing the appeal before the Commissioner (Appeals) is condoned and I set aside the impugned order and remand the matter to the ld. Commissioner (Appeals) for deciding the issue on merits. Needless to mention, a reasonable opportunity of hearing be granted to the appellant to present their case. Both sides are at liberty to produce evidences in their support.

5. In the result, the Appeal filed by the appellant is allowed by way of remand.

(Dictated and pronounced in the open Court)

Sd/

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

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