

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

Appeal No.C/78448/2018

(Arising out of Order-in-Appeal No.KOL/CUS(CCP)/AA/1292/2018 dated 06.07.2018 passed by the Commissioner of Customs (Appeals), Kolkata)

Md. Shakeel Ahmed

Applicant (s)/Appellant (s)

Vs.

Commissioner of Customs, Kolkata (Prev)

Respondent (s)

Appearance:

Shri B.N.Chattopadhyay, Consultant for the Appellant (s)

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

CORAM:

Hon'ble Shri P.K.Choudhary, Member (Judicial)

Date of Hearing/Decision:- 19.11.2018

ORDER NO.FO/76965/2018

Per Shri P.K.Choudhary

This appeal is listed for admission today. After hearing both sides and despite the amount involved in this case being less than Rs.2.00 lakhs, the appellant intends to contest the issue on merit, which is admitted and since the issue lies in a narrow compass, with the consent of both sides the same is taken up for disposal.

2. Heard both sides and perused the appeal record.

3. I find from the record that the appellant had filed appeal before the lower appellate authority on 28.12.2015 against the Order-in-Original No.29/ADC(P)/CUS/WB/15-16 dated 14.10.2015, which was received by the appellant on 30.10.2015.

4. I find from the impugned order that the stipulated period for filing of the appeal has been calculated from the date of passing of the Order-in-Original,

whereas it should have been calculated from the date of receipt of the adjudication order by the assessee, which in this case is 30.10.2015. Since the appeal was filed on 28.12.2015, the same is well within time.

5. On the facts as stated above and under the circumstances of the case, it would be appropriate to remit the matter back to the lower appellate authority to decide the appeal on merit and pass order in accordance with law. Needless to mention that a reasonable opportunity of hearing will be given to the appellant.

6. In the result, the appeal is allowed by way of remand.

(Dictated and pronounced in the open court)

S/d.
(P.K.Choudhary)
MEMBER (JUDICIAL)