

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

**C/MA (COD)-76876/2018  
And  
Stay Petition No. 76877/2018  
And  
Appeal No. C/78160/2018**

Arising out of Order-in-Appeal No. KOL/CUS(PORT)/AA/2107/2017 dated 18.12.2017 passed by the Commissioner of Customs (Port), Kolkata.

Commissioner of Customs (Port), Kolkata.

....Appellant (s)

**Vs.**

M/s Amar Traders.

...Respondent (s)

Appearance:

Shri S. Guha, A. C (AR) for the Appellant (s)

None for the Respondent(s)

**CORAM:**

**HON'BLE SHRI P. K. CHOUDHARY, MEMBER (JUDICIAL)**

Date of Hearing/Decision: - 28.12.2018

ORDER No. MO/76068-76069/2018 & FO/A/77167/2018

**Per Shri P. K. Choudhary:**

The present Miscellaneous Application has been filed by the Revenue, seeking condonation of inordinate delay of 140 days in filing the appeal before this Tribunal.

2. In view of the reasons as explained in the application, the delay in filing the appeal before this Tribunal is condoned. The Miscellaneous Application (COD) is allowed.

3. With the consent of the Ld. D. R. the present appeal filed by the Revenue is being taken up for final disposal.

4. Heard the Ld. D. R. for the Revenue and perused the appeal records.

5. This appeal is filed by the Revenue against the Order-in-Appeal No. KOL/CUS(PORT)/AA/2107/2017 dated 18.12.2017 passed by the Commissioner of Customs (Port), Kolkata.

5. On perusal of records, I find that the amount involved in this case is below the monetary limit of Rs.10 lakhs. Attention is now invited to the instructions issued by the Board on filing of departmental appeals vide F. No. 390/Misc./163/2010-JC dated 20.10.2010 and subsequently amended through instructions issued from even nos. dated 17.08.2011 and then dated 17.12.2015. From a reading of these instructions it transpires inter alia that no departmental appeal shall be made before the Tribunal if the total revenue in dispute is less than Rs. 10 lakhs until and unless the appeals contemplated to be filed are directed against adverse judgments delivered on the following grounds where appeals can be filed irrespective of monetary limits.

(a) Where the constitutional validity of the provisions of an Act or Rule is under challenge.

(b) Where Notification/instruction/Order or Circular has been held illegal or ultra vires.

(c) Classification and legal issues which are of legal and / or of recurrent nature.

7. The present case falls under exclusion clause 3 (C) of the National Litigation Policy introduced vide Board's Instruction dated

17.12.2017 which has been deleted vide Instruction F. No. 390/Misc./116/2017-JC dated 04.04.2018.

8. In view of the above discussions, the appeal is dismissed under National Litigation Policy. Stay Petition also gets disposed off.

(Dictated and pronounced in the open court.)

**(P. K. Choudhary)**  
**Member (Judicial)**

Tushar Kr.