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

MA (COD)-75835/18
& Cus.Appeal No.76709/18

Arising out of Order-in-Appeal No.Kol/Cus (Port)/AA/369/2018 dated 06.02.2018 passed by Commr. of Customs (Appeals), Kolkata

M/s Carbon Resources Pvt. Ltd.

...APPELLANT(S)

VERSUS

CC (Port), Kolkata

RESPONDENT (S)

APPEARANCE

Ms.Shreya Mundra, C.A. 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 & PRONOUNCEMENT : 18. 02. 2019

ORDER NO. MO/75097/2019 & FO/75196/2019

Per Shri P. K. Choudhary :

The appellant/applicant has filed the present Miscellaneous Application for condoning the delay of 11 days in filing the appeal before this Forum.

2. In view of the reasons as explained by the ld.Counsel for the applicant and the submissions as mentioned in the application, the delay in filing the appeal is condoned. The Misc.Application (COD) is allowed.

3. Since the issue involved in the present case lies in a narrow compass, with the consent of ld.D.R. for the Revenue, the appeal itself is taken up for final disposal.

4. Heard both sides and perused the appeal records.

5. I find that the Commissioner (Appeals) has not decided the appeal on merit, but rejected the same on the ground of time bar. On perusal of record, I find that the Order-in-Original dated 12.06.2017 was received by the assessee on 15.06.2017 and accordingly, they were required to file the appeal before the lower appellate authority on or before 16.08.2017. However, the appeal was filed only on 08.09.2017 i.e. after a delay of 23 days. I find that though the appeal has been filed beyond the statutory period of 60 days but the same has been filed within the condonable period of thirty days. Accordingly, the delay in filing the appeal before the lower appellate authroity is condoned. It would be appropriate to remit the matter back to the ld.Commissioner (Appeals) to decide the appeal on merit. 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.

(Dictated and pronounced in the open Court)

Sd/

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

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