IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

Customs Miscellaneous Application (COD) No.D/75427 of 2020
&
Customs Miscellaneous Application (EH) No.75104 of 2021
&
Customs Appeal No.75321 of 2021

(Arising out of Order-in-Appeal No.Kol/Cus(Port)/AKR/19/2020 dated 20.01.2020 passed by Commr. (Appeals) of Customs, Kolkata)

M/s Super Traders
Fancy Plaza, 5th Floor, 2, Dent Mission Road, Kolkata 700023

Appellant

VERSUS

Commr. of Customs (Port), Kolkata
15/1 Strand Road, Kolkata-700001

Respondent

Appearance:

Shri H.K.Pandey, Advocate for the Appellant
Shri A.K.Biswas, Authorized Representative for the Respondent

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

MISC. ORDER NO.75030-75031/2021
FINAL ORDER NO.75153/2021

DATE OF E- HEARING : 25.03.2021
DATE OF E-DECISION : 25.03.2021

PER P.K.CHOUDHARY :

The present Miscellaneous Application has been filed by the applicant/appellant for condoning the delay of 157 days in filing the appeal before the Tribunal.

2. The Ld.Advocate appearing on behalf of the appellant, submits that the Order-in-Appeal dated 20.01.2020 was received on 27.01.2020 and during the process of compilation of documents and drafting the proper appeal papers, lockdown period commenced because of Covid-19 Pandemic, which has resulted in inordinate delay in filing the appeal before the Tribunal.

3. In view of the submissions made by the Ld.Advocate for the appellant/appalicant and the reasons as explained in the Miscellaneous Application, the delay in filing the appeal before the Tribunal is condoned.

4. At this stage, the Ld.Advocate also mentions that though they had deposited an amount of Rs.7,12,108/- as duty, but the same was not considered by the Ld.Commissioner (Appeals) towards predeposit, which is more than 10% of the requirement of mandatory predeposit and the Ld.Commissioner (Appeals) rejected their appeal as not maintainable.

5. Heard both sides through video conferencing and perused the appeal records.

6. In view of the above facts and circumstances of the case, I find it appropriate to remand the matter to the lower appellate authority to decide the appeal on merits without insisting on any further pre-deposit. The Ld.Commissioner (Appeals) is directed to dispose of the appeal on priority basis as the consignments are still lying at the Port, preferably within a period of two months from the date of receipt of this order.

7. In the result, the appeal is allowed by way of remand. The Early Hearing application filed by the appellant also gets disposed off.

Dictated and pronounced in the open Court.

Sd/
(P.K.Choudhary)
Member (Judicial)

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