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

REGIONAL BENCH – COURT NO.2

Customs Miscellaneous Application (EH) No.75141 of 2021
&
Customs Appeal No.75204 of 2021

(Arising out of Order-in-Appeal No.Kol/Cus/CCP/AKR/93/2021 dated 27.01.2021 passed by Commr.(Appeals) of Customs, Kolkata

Shri Anurag Jalan
43 (2nd Floor) Nalini Seth Road, Sonpatty, Burrabazar, Kolkata-700007

Appellant

VERSUS

Commr. of Customs (Prev.), Kolkata
15, Strand Road, Kolkata-700001

Respondent

Appearance:
Shri Amit Awasti, Advocate for the Appellant
Shri M.P.Toppo, Authorized Representative for the Respondent

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

MA ORDER NO.75064/2021
FINAL ORDER NO.75352/2021

DATE OF E- HEARING : 02.07.2021
DATE OF E-DECISION : 02.07.2021

PER P.K.CHOUDHARY :

In view of the submissions as made by the ld. Advocate for the appellant/applicant, the early hearing application is allowed. Since the issue is in a narrow compass, I take up the appeal itself with the consent of both sides.

2. After hearing both sides through video conferencing and perusing the appeal records, I find that the Order-in-Original dated 02.07.2019 was received by the assessee on 11.07.2019. The due date in filing of the appeal was 60 days i.e. on or before 09.09.2019. The appeal was, however, filed on 30.09.2019 i.e. after a delay of 21 days. The lower appellate authority preferred not to condone the delay and dismissed the appeal filed before him as time bar without going into the merits of the case.

2. I find that the appeal was filed within condonable period of 30 days.

3. In view of the submissions as made by the Ld.Advocate for the appellant and the reasons as explained by him, it is my considered view that the delay in filing of the appeal before the lower appellate authority is condonable and I hereby do so. Since, the lower appellate authority has not decided the appeal on merit, I find it appropriate to remand the matter to the lower appellate authority to decide the appeal on merit without visiting the aspect of limitation. 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.

4. 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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