

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

Customs Miscellaneous Application (EH) No.75205 of 2021
&
Customs Appeal No.75336 of 2021

(Arising out of Order-in-Appeal No.KOL/CUS(Port)/AKR/55/2021 dated 13.01.2021 passed by Commissioner (Appeals) of Customs, Customs House, Kolkata)

M/s Bengal Beverages Pvt. Ltd.

Durgapur Expressway, P.O.Dunkuni, Coal Complex, Hooghly-712310

Appellant

VERSUS

Commissioner of Customs (Port), Kolkata

15/1 Strand Road, Kolkata-700001

Respondent

Appearance:

Shri Ankit Kanodia, Advocate for the Appellant

Shri A.Roy, Authorized Representative for the Respondent

CORAM:

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

HON'BLE SHRI RAJU, TECHNICAL MEMBER

MISC.ORDER NO.75162/2021

FINAL ORDER NO.75485/2021

DATE OF E-HEARING : 23.08.2021

DATE OF DECISION : 23.08.2021

Per P.K.Choudhary :

In view of the submissions as made by the Ld.Advocate for the appellant/applicant and the reasons as mentioned in the Miscellaneous Application, the prayer for out-of-turn hearing of the appeal is allowed. Accordingly, Miscellaneous Application (EH) is allowed.

2. Since the issue involved in this appeal lies in a narrow compass, we take up the appeal itself for disposal with the consent of both sides.

3. After hearing both sides through video conferencing and perusing the appeal records, we find that the Order-in-Original dated 04.07.2019 was issued on 11.07.2019 and the same was received by the assessee on 18.07.2019. The due date in filing of the appeal

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was 60 days i.e. on or before 16.09.2019. Whereas the appeal was, filed by the assessee on 12.09.2019. We find that the appeal was filed within stipulated period of 60 days and there is no delay in filing the appeal before the lower appellate authority. The lower appellate authority dismissed the appeal filed before him as time bar without going into the merits of the case.

4. Since, the lower appellate authority has not decided the appeal on merit, it would be 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.

5. 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)

Sd/

(Raju)
Member (Technical)

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