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

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.75335 of 2018

(Arising out of Order-in-Appeal No.18/S.Tax/Slg Appeal/17 dated 30.11.2017 passed by Commissioner(Appeals), Goods & Service Tax, Siliguri Appeal Commissionerate, Siliguri.)

M/s. Mondal Construction
(Chanktetul, P.O.Rondiha, Burdwan, Pin-713420.)

...Appellant

VERSUS

Commissioner of CGST & CX, Bolpur Commissionerate

.....Respondent

(Nanoor Chandidas Road, Sian, Bolpur, Dist: Birbhum, West Bengal.)

APPEARANCE

Shri Debraj Dutta, Advocate for the Appellant (s)
Shri A.Roy, Authorized Representative for the Respondent (s)

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

FINAL ORDER NO. 75018/2023

DATE OF HEARING : 1 February 2023
DATE OF DECISION : 1 February 2023

P.K.CHOUDHARY :

Heard both sides and perused the Appeal records.

2. I find that the Order-in-Original dated 20.08.2015 was received by the appellant on 26.08.2015 and the due date for filing the Appeal before the First Appellate Authority was on or before 26.10.2015. The Appeal was filed by the Appellant only on 30.12.2015 i.e. much beyond the statutory period of 60(sixty) days and also beyond the condonable period of 30(thirty) days as provided under section 35(1) of the Central Excise Act, 1944. Since the Appeal was filed beyond the condonable period, the Ld. Commissioner(Appeals) had no option, but to reject the Appeal before him.

3. In view of the decision of the Hon'ble Supreme Court in the case of Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur [2008 (221) E.L.T. 163 (S.C.)], wherein it has been held that the Tribunal being a creation of statute is not competent enough to condone the delay beyond the condonable period, accordingly, the Appeal is dismissed on the above terms.

(Dictated and pronounced in the open Court.)

Sd/
(P.K.CHOUDHARY)
MEMBER (JUDICIAL)

sm