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

REGIONAL BENCH – COURT NO.2

Service Tax Miscellaneous Application No. 76097 of 2018 (COD)
And
Service Tax Appeal No. 77071 of 2018

(Arising out of Order-in-Appeal No.80/Pat/S.Tax/Appeal/2017-18 dated 06.11.2017 passed by Commissioner (Appeals) of Customs, Central GST & Central Excise, Patna.

M/s. Apeejay Construction
(Prop-Anup Mazumdar, New Colony,
Ullao, Begusarai-851134)

Appellant

VERSUS

Commr. of CGST & Central Excise, Patna Commissionerate
(2nd Floor, C. R. Building, Bir Chand Patel Path, Patna)

Respondent

APPERANCE :
None for the Appellant
Mr. P. K. Ghosh, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)

MISCELLANEOUS ORDER NO.75126/2023
FINAL ORDER NO. 75316/2023

Date of Hearing : 1st May 2023
Date of Decision : 1st May 2023

PER R. MURALIDHAR :

No one appeared on behalf of the Appellant inspite of hearing notice conveyed to them on 17/04/2023 as can be seen from the records of the Registry. The Appellant in their Miscellaneous Petition submits that the present Appeal has been filed by them with a delay of 107 days and the Learned AR submits that as per their records, the delay is for 119 days.

2. Further on perusal of the OIA, it is seen that the appellant has filed their Appeal before the Commissioner (Appeals) with a delay of 298 days beyond normal applicable period of 60 days and condonable period of 30 days by the Commissioner (Appeals).

3. The Hon'ble Supreme Court in the case of Singh Enterprise Vs. Commr. of C. Ex., Jamshedpur, 2008 (221) E. L. T. 163 (S.C.) has held that there is no power available to the Commissioner (Appeals) to

condone any delay beyond 30 days and even higher Appellate Authorities like High Court/Supreme Court cannot direct the Commissioner (Appeals) to condone such delays. Since the delay has taken place while the Appeal was filed before the Commissioner (Appeals), Tribunal cannot condone the delay at their end.

2. Accordingly, the Miscellaneous Application filed by the Applicant/Appellant for the condonation of Delay is rejected and the Appeal is also dismissed.

(Dictated and pronounced in the open court.)

Sd/-

(R. Muralidhar)
Member (Judicial)

Pooja