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

REGIONAL BENCH – COURT NO. 2

Excise Appeal No. 76293 of 2019

WITH

Excise Cross Objection No. 76641 of 2019

(Arising out of Order-in-Appeal No. 434/SLG-CE/2018-19 dated 01.03.2019 passed by the Commissioner (Appeals), Siliguri Appeal Commissionerate, C.R. Building, Haren Mukherjee Road, Hakimpara, Siliguri – 734 001)

M/s. Pristine Life Science **: Appellant**
Opposite Bhanu Park,
P.O. Singtam, East Sikkim – 737 134

VERSUS

Commissioner of G.S.T. and Central Excise **: Respondent**
C.R. Building, Haren Mukherjee Road,
Hakimpara, Siliguri – 734 001

APPEARANCE:

None for the Appellant [request for virtual hearing received]

Shri S. Mukhopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)

FINAL ORDER NO. 75204 / 2024

DATE OF HEARING / DECISION: 16.02.2024

Order :

The appellant's Advocate has sent a request for adjournment and also sought for virtual hearing, on 29.02.2024. Since the matter pertains to the year 2019, I have gone through the appeal papers with the help of the Ld. Authorized Representative appearing for the respondent.

2. I find that the Commissioner (Appeals) has dismissed the appellant's appeal before him on the ground that it was filed with a delay of 26 days. In terms of proviso to Section 35(1) of the Central Excise Act, 1944, the Commissioner (Appeals) has the power to condone a delay of up to 30 days. In this case, I am of the opinion that the appellant should have been granted condonation of the delay and the appeal should have been taken up for disposal on merits by the Commissioner (Appeals). Since he has not gone into the merits of the case, the matter cannot be decided by the Tribunal.

3. We condone the delay of 26 days in filing the appeal before the Commissioner (Appeals) and remand the matter to the Commissioner (Appeals) for taking up the appeal and deciding the same on merits, within three months from the date of receipt of this Order.

4. The appeal is disposed of thus. The cross-objection filed by the respondent stands disposed of accordingly.

(Dictated and pronounced in the open court)

Sd/-
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sdd