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

REGIONAL BENCH – COURT NO. 2

Service Tax Appeal No. 76420 of 2019

(Arising out of Order-in-Appeal No. 16/KOL-South/2019 dated 11.02.2019 passed by the Commissioner of C.G.S.T. & C.X. (Appeals-I), Kolkata, G.S.T. Bhawan (8th Floor), 180, Shantipally, Kolkata – 700 107)

M/s. P.E. Erectors Private Limited **: Appellant**
2239, Progressive Idol, Garia Station Road,
Kalitala, 24 Parganas (S), Kolkata – 700 084

VERSUS

Commissioner of G.S.T. and Central Excise **: Respondent**
Kolkata South Commissionerate
180, Shantipally, Rajdanga Main Road, Kolkata – 700 107

APPEARANCE:

Smt. Ruchi Hallen, Advocate for the Appellant

Shri S. Mukhopadhyay, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 75205 / 2024

DATE OF HEARING / DECISION: 16.02.2024

Order :

Heard both sides and perused the appeal records.

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 14 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 14 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.

(Dictated and pronounced in the open court)

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

Sdd