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

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 76710 of 2018

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/AA/498/2018 dated 21.02.2018 passed by Commissioner of Customs (Appeals), Kolkata)

M/s. Carbon Resources Private Limited
(Narayani Niwas, New Barganda, Giridih-815301, Jharkhand)

Appellant

VERSUS

Commr. of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Respondent

With

Customs Appeal No. 76711 of 2018

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/AA/755/2018 dated 23.04.2018 passed by Commissioner of Customs (Appeals), Kolkata)

M/s. Carbon Resources Private Limited
(Narayani Niwas, New Barganda, Giridih-815301, Jharkhand)

Appellant

VERSUS

Commr. of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Respondent

APPEARANCE :
Mr. Rahul Tangri & Ms. Payal Bharwani, both advocate for the Appellant
Mr. S. Chakraborty, Authorized Representative for the Respondent

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

FINAL ORDER NO.76210-76211/2024

Date of Hearing : 24/06/2024
Date of Decision: 24/06/2024

PER R. MURALIDHAR:

The present appeals have been filed by the appellant being aggrieved by the order passed by the Commissioner (Appeals), in which he has dismissed the Appeal on the sole ground that the Appeal was filed with the delay of 12 days.

2. In terms of Section 128 of the Customs Act, 1962, the Learned Commissioner (Appeals) has the power to condone the delay upto a period of 30 days after the 60 days time period provided to file the appeal.

3. The Hon'ble Supreme Court in the case of **Singh Enterprises-2008 (221) E.L.T. 163 (S.C.),** has also held that the Learned Commissioner (Appeals) has the power to condone the delay upto a period of 30 days as prescribed in the statute.

4. In this case, it is seen that the Appellant has filed this Appeal on 16.12.2016 against the Bill of Entry dated 05.10.2016. Therefore, we find that the Appeal was filed with a delay of 12 days after the expiry of 60 days which is well within the condonable period. Hence, we condone the delay and remand the matters to the Commissioner (Appeals) to decide the Appeals on merits.

5. Since the matters pertain to the year 2016, the Commissioner (Appeals) is directed to complete the proceedings within 3 months from the date of receipt of this Order.

(Dictated and pronounced in the open court.)

Sd/-
(R. Muralidhar)
Member (Judicial)

Sd/-
(Rajeev Tandon)
Member (Technical)

Pooja