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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75703 of 2015

(Arising out of Order-in-Appeal No. 07/RAN/2015 dated 27.03.2015 passed by the Commissioner (Appeals), Central Excise & Service Tax, 605, Mahabir Tower, Main Road, Ranchi – 834 001)

M/s. Bank of India **: Appellant**
Jhumritelaiya Branch, Dist.: Koderma,
Ranchi Patna Road, Jhumritelaiya – 825 409

VERSUS

Commissioner of Central Excise and Service Tax **: Respondent**
605, Mahabir Tower, Main Road, Ranchi – 834 001

APPEARANCE:

None for the Appellant

Shri S. Mukhopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76254 / 2024

DATE OF HEARING / DECISION: 09.07.2024

ORDER: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order wherein their appeal has been dismissed by the Ld. Commissioner (Appeals) holding the same as barred by limitation.

2. The facts of the case are that the adjudication order was passed on 24th March, 2014 and as per the preamble of the said order, the time-limit for filing the appeal was mentioned as "three months" from the date of receipt of the adjudication order and accordingly, the said period could be extended for another three months on showing reasonable cause for filing the appeal with delay, as per the relevant provision during the relevant period.

2.1. The Ld. Commissioner (Appeals) in the impugned order has observed that the appellant had filed the appeal with a delay of more than two months and eight days, but from the impugned order, it is not forthcoming as to whether the appeal was filed after receipt of the adjudication order with a delay of two months and eight days or whether after the expiry of three months, the delay was two months and eight days.

3. As per the preamble of the adjudication order, the initial time-limit prescribed for filing the appeal was "three months" from the date of receipt of the said order and the said period could be extended for another three months upon showing sufficient reason for causing the delay, which the appellant has explained stating that their Chief Manager was transferred and therefore the delay had occurred.

4. On perusal of the records, we observe that the benefit of doubt goes in favour of the appellant as the preamble of the adjudication order itself shows the time limit for filing the appeal as "three months" from the date of receipt of the adjudication order and the said period could be extended for another three months. In these circumstances, we condone the delay in filing the appeal before the Ld. Commissioner (Appeals).

5. Further, we take note of the fact that the Ld. Commissioner (Appeals) has not decided the issue on merits and hence, after setting aside the impugned order, we remand the matter to the Ld. Commissioner (Appeals) to decide the issue on merits within a period of three months, after affording an opportunity of being heard.

6. The appeal is disposed of by way of remand.

(Dictated and pronounced in the open court)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd