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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 76259 of 2016

(Arising out of Order-in-Appeal No. 175/RAN/2013 dated 12.09.2013 passed by the Commissioner (Appeals), Central Excise & Service Tax, 605, Mahabir Tower, Main Road, Ranchi-834 001)

M/s. Abdul Hamid **: Appellant**
New Market, Singhpur,
Chotamuri, Ranchi-835101

VERSUS

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

APPEARANCE:

None for the Appellant

Shri S. S. Chattopadhyay, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO.76603/2024

DATE OF HEARING / DECISION: 05.08.2024

Order: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order wherein their appeal has been disposed of by the Ld. Commissioner (Appeals) as time-barred.

2. As per the impugned order, there was a delay of 27 days in filing the appeal before the Ld. Commissioner (Appeals), which the appellant had explained that he was not in good health for the last several days. However, the Ld. Commissioner

(Appeals) did not accept the submission of the appellant for condonation of delay, which was filed within the condonable period by the appellant. Accordingly, the appeal was rejected by the Ld. Commissioner (Appeals) has time-barred.

3. None appeared on behalf of the appellant nor any request for adjournment has been received on their behalf.

3.1. Considering the fact that the issue involved in the case is on a narrow compass, the appeal is taken up for consideration.

4. We find that the Ld. Commissioner (Appeals) has dismissed the appeal filed by the appellant on the ground that the application for condonation of delay was filed by the appellant in a routine manner and no serious attempt was made by the appellant to justify the delay caused by the appellant.

4.1. As we observe that the appellant had explained in their application that they were not having good health, therefore, the Ld. Commissioner (Appeals) could have judiciously applied his mind and had to condone the delay of 27 days in filing the appeal. This discretion is given to the Ld. Commissioner (Appeals), to apply his mind judiciously, which he has failed to do.

5. In these circumstances, we set aside the impugned order and remand the matter back to the Ld. Commissioner (Appeals) to decide the issue on merits, as no merits had been discussed in the impugned order.

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

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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