

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA
REGIONAL BENCH – COURT NO.2**

Customs Appeal No. 77103 of 2018

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/AA/670/2018 dated 04.04.2018 passed by Commissioner of Customs (Appeals), Kolkata.)

M/s K. P. Agarwal & Co.

(P-15, Bentinck Street, 2nd Floor, Kolkata-700001.)

..Appellant

VERSUS

Commissioner of Customs (Port). Kolkata,

15/1, Strand Road, Kolkata-700001.

...Respondent

..

APPEARANCE :

Shri S. P. Mazumdar, Advocate for the Appellant

Shri S. Debnath, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. R. MURALIDHAR MEMBER (JUDICIAL)

HON'BLE MR. RAJEEV TANDON MEMBER (TECHNICAL)

FINAL ORDER No.....77089/2024

DATE OF HEARING : 27.09.2024

DATE OF DECISION : 27.09.2024

PER R. Muralidhar:

When the matter was taken up for hearing, the Learned AR points out that the Commissioner (Appeals) has dismissed the appeal filed by the appellant on the ground that it was filed belatedly.

2. The Learned Counsel appearing on behalf of the appellant submits that the appeal before the Commissioner (Appeals) was filed on 61st day, that is one day after the normal period available for filing the appeal. Still the Commissioner (Appeals) has not considered the power of condonation available with him.

3. On going through the details of the case, we find that the appellant has filed the appeal before the Commissioner (Appeals) on 61st day and the Commissioner (Appeals) was empowered to grant the

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condonation of upto 30 days, which he should have done in the normal course and has not been done here.

3. We hold that the appellant is eligible for condonation for the appeal filed before the Commissioner (Appeals). We condone the delay and remand the matter to the Commissioner (Appeals). We direct the Commissioner (Appeals) to take up this appeal and decide the same on merits within four 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)

Sd/-
(Rajeev Tandon)
Member (Technical)

T.K.