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

REGIONAL BENCH – COURT NO.2

**Excise Appeal No. 76507 of 2016**

(Arising out of Order-in-Appeal No. 18/JSR/2016-17 dated 02.06.2016 passed by Commissioner of CGST & Central Excise, Jamshedpur.)

**M/s Cabcon Telelinks Pvt. Ltd.,**
(NS-2, 7th Phase, Adityapur, Industrial Area,
Jamshedpur-831001).

**...Appellant**

*VERSUS*

**Commissioner of CGST & Central Excise, Ranchi,**
Room No. 605, 6th Floor, Mahabir Towers, behind Glitz Cinemas,
Main Road, Ranchi-834001)

.. ...**Respondent**

**APPERANCE :**
None, for the Appellant
Shri P. K. Ghosh, Authorized Representative for the Respondent

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

**Final Order No...75261/2025**

DATE OF HEARING : 21.01.2025
DATE OF DECISION : 21.01.2025

**PER R. Muralidhar:**

No one has appeared on behalf of the appellant in spite of notice. After observing that the appellant has not appeared for hearings during the last few dates given to them, in the interest of justice, the appeal itself was taken up for disposal.

2. We find that the Commissioner (Appeals) had dismissed the appeal filed by the appellant on the grounds that it was filed with a delay of five days.

3. We find that when the appeal is filed after 60 days but before the next 30 days, that is within 90 days, the Commission (Appeals) has the power to condone the same in terms of proviso to Section 35(1) of the

Central Exercise Act, 1944. In this case, the Commission (Appeals) himself has noted that this appeal has been filed with a delay. On five days on the ground that condonation of delay petition was not filed by the appellant, he has dismissed the same.

4. We take the view that in case the appellant had filed with a delay of five days, the defect memo should have been issued to the appellant so that he could have filed the condonation of delay petition before the Commission (Appeals). Even otherwise, we find that the period is within the condonable period of 30 days. Therefore, we condone the delay and direct the Commission of Appeals to take up the appeal for disposal on merits.

5. Since the issue pertains to the year 2016, he is directed to complete the appeal proceedings within four 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)**

Tushar Kr.