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

REGIONAL BENCH – COURT NO. 1

Excise Miscellaneous [COD] Application No. 75115 of 2017
(on behalf of Appellant)
In
Excise Appeal No. 75298 of 2017

(Arising out of Order-in-Original No. 54/COMMR/DGP/BNK/15-16 dated 29.01.2016 passed by the Commissioner of Customs, Central Excise & Service Tax, Durgapur Commissionerate, Satyajit Ray Sarani, City Centre, Durgapur – 713 216, Burdwan)

M/s. Concast Steel and Power Limited **: Applicant / Appellant**
21, Hemant Basu Sarani, Mezzanine Floor,
Kolkata – 700 001 (West Bengal)

VERSUS

Commissioner of Customs, Central Excise and Service Tax **: Respondent**
Durgapur Commissionerate
Satyajit Ray Sarani, City Centre,
Durgapur – 713 216, Burdwan (West Bengal)

APPEARANCE:

None for the Applicant/Appellant

Shri Debapriya Sue, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 76428 / 2025

DATE OF HEARING / DECISION: 03.06.2025

ORDER: [PER SHRI ASHOK JINDAL]

By this application, the appellant-applicant is seeking condonation of the delay in filing this appeal, of 271 days.

2. The facts of the case are that the appellant was earlier known as "M/s. Concast Bengal Industries Limited", which was having a manufacturing activity. As per the scheme of merger dated 26th November, 2015, as sanctioned by the Hon'ble High Court at Calcutta, the entire undertaking and business of M/s.

Concast Bengal Industries Ltd., including its rights, assets and/or liabilities, were transferred to and vested in the appellant before us. This appeal has been filed by the transferee in terms of the scheme of merger.

2.1. The impugned order dated 29th January, 2016 was received in the office of M/s. Concast Bengal Industries Ltd. on 03rd February, 2016 and the operations of the merger company started on or around 1st April, 2016. At that time, the appellant came to know about the passing of the order dated 29th January, 2016 and in the last week of April, 2016, the appellant reported this matter to its legal department, which advised the appellant about the legal recourse that may be taken against the impugned order.

2.2. On 15th May, 2016, the legal department of the appellant advised them to approach the Hon'ble High Court. Being not satisfied with such legal advice offered by the department, the appellant sought further legal advice from a competent advocate. Thereafter, on 10th June, 2016, a conference was held by the authorized representative of the appellant with a Ld. Advocate of the Hon'ble Calcutta High Court, who was well-conversant with taxation matters. After having held the said conference, the Ld. Advocate sought time to go through the records of the case in order to be able to give a correct legal opinion in the matter.

2.3. On or about 15th August, 2016, the said advocate advised that, since the adjudication order dated 29th January, 2016 was appealable, an appeal was to be preferred.

2.4. Thereafter, on 02nd September, 2016, the management of the appellant decided to proceed according to the legal opinion given by the said Ld. Advocate. In the third week of November, 2016, the company advised the Ld. Advocate to draft the necessary appeal and the said appeal was drafted on 11th January, 2017. However, there being a delay in the drafting of the appeal, an appeal for condonation of delay was also drafted. Thereafter, on 20th February, 2017, the appeal was finalized and filed on 22nd February, 2017, therefore resulting in a delay, which the appellant claims to be bona fide and unintentional and thus seeking condonation.

3. Despite several notices, none have appeared on behalf of the appellant nor any requests for adjournment have been made. It was also found that at their given address, nobody is available and no such firm was found at the given address, therefore, the application is considered on merits on the basis of available records.

4. We have gone through the reasons given by the appellant in their application placed before us for causing the said delay in filing the appeal.

5. Although the appellant, after the merger, took over the liabilities of M/s. Concast Bengal Industries Limited as per the Order dated 26th November, 2015 passed by the Hon'ble Calcutta High Court, it is a fact that the impugned order has been passed only on 29th January, 2016. It is also an admitted fact that the appellant has received the said order on 03rd February, 2016. Thereafter, the appellant was gaining time, seeking legal opinion from their legal department, who had advised them to file an appeal

before the Hon'ble High Court, but they did not rely upon the legal advice given by the legal department and instead entrusted the matter to some advocate practising in the High Court at Calcutta. However, no name has been mentioned as to whom they consulted, who was practising in the Hon'ble High Court at Calcutta.

5.1. Further, the appellant are mentioning that they had held a conference with the said Ld. Counsel, but no details thereof have been given in their application. Moreover, we observe that the only advice that appears to have been given by the said Ld. Advocate is that the impugned order was appealable. However, to show that the matter was entrusted to the Ld. Counsel to draft the appeal, no Vakalatnama has been placed on record.

6. In these circumstances, the reasons for causing the delay in filing the present appeal have not been explained by the appellant satisfactorily to this Bench. Thus, we do not find any merit in the application for condonation of delay filed by the appellant. Accordingly, the application for condonation of delay stands dismissed. Consequently, the appeal also stands dismissed.

(Dictated and pronounced in the open court)

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd