

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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75793 of 2021

(Arising out of Order-in-Appeal. No. KOL/CUS(PREV)/WB/AKR/145/2021 dated 09.02.2021 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Krishna Kumar Gupta

: Appellant

S/o. Late Balchand Gupta,
Jharna Busty, N.S. Road, Near LIC Office,
Jaigaon, District: Alipurduar,
West Bengal – 736 182

VERSUS

Commissioner of Customs (Preventive)

: Respondent

Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

None for the Appellant (Adjournment request received on their behalf)

Shri Sourabh Chakravorty, Authorized Representative, for the Respondent

CORAM:

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

FINAL ORDER NO. 76937 / 2025

DATE OF HEARING / DECISION: 18.07.2025

ORDER:

None appeared on behalf of the appellant. However, in the interests of justice, the appeal is taken up for a decision with the consent of the Ld. Authorized Representative of the Revenue.

2. On perusal of the records, I find that the Ld. Commissioner (Appeals), in the impugned order, has not decided the issue on merits. In the impugned order, the Ld. Commissioner (Appeals) has observed that the appellant has filed the appeal before him with a delay of 29 days from the time-period stipulated for filing an appeal before the Commissioner (Appeals)

under Section 128 of the Customs Act, 1962. Accordingly, the appeal has been rejected as time-barred.

3. Heard the Ld. Authorized Representative of the Revenue and perused the records.

4. I observe that as per Section 128 of the Customs Act, 1962, an appellant is required to file the appeal before the Commissioner (Appeals) within a period of sixty days from the date of receipt of the Order-in-Original and the Commissioner (Appeals) is empowered to condone a delay up to a period of thirty days, beyond the sixty-day time-period. In the present case, I find that the appellant has filed the said appeal before the Ld. Commissioner (Appeals) with a delay of 29 days. The appellant has cited the reason of difficulty in arrangement of pre-deposit as the cause for the said delay. In the interests of justice, I find that the delay of 29 days in filing the appeal before the Ld. Commissioner (Appeals) can be condoned and the appeal can be decided on merits by the Ld. Commissioner (Appeals).

4.1. In view of the above, I set aside the impugned order and remand the matter back to the Commissioner (Appeals) to decide the issue on its merits.

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

(Dictated and pronounced in the open court)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)