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

REGIONAL BENCH – COURT NO.1

Customs Appeal No.75662 of 2023

(Arising out of Order-in-Appeal No.Kol/Cus(Port)/KS/538/2023 dated 21.07.2023 passed by Commissioner (Appeals) of Customs, Kolkata)

M/s Sigma Power Product Private Limited
(18, Chandani Chowk Street, 3rd Floor, Kolkata-700072)

Appellant

VERSUS

Commissioner of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Respondent

APPERANCE :
None for the Appellant
Shri S.Debnath, Authorized Representative for the Respondent

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77328/2025

DATE OF HEARING : 19 AUGUST 2025
DATE OF DECISION : 19 AUGUST 2025

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the ld.Commissioner (Appeals) dismissed their appeal as barred by limitation as the same has been filed beyond the time limit prescribed under Section 128 (1) of the Customs Act, 1962.

2. The facts of the case are that vide Bill of Entry dated 08.03.3022, was re-assessed under Section 17 (4) of the Act on 10.03.2022 and as per Section 17 (5) of the Act, the speaking order of the adjudicating authority is required to be passed within 15 days for reassessment. The said period expired on 25.03.2022, but the appellant filed appeal against the reassessment of the Bill of Entry on 20.06.2022. The

ld.Commissioner (Appeals) dismissed the appeal as barred by limitation as the same has been filed beyond condonable period. Aggrieved from the said order, the appellant is before us.

3. None appeared on behalf of the appellant.

4. We find that the issue lies in a narrow compass, therefore, we take up the appeal for disposal.

5. On going through the records placed before us, admittedly, in this case, no order has been passed under Section 17 (5) of the Act within 15 days of the date of assessment and after 15 days, the appellant is entitled to file appeal before the ld.Commissioner (Appeals). Therefore, we hold that the appellant has filed the appeal before the ld.Commissioner (Appeals) under Section 128 (1) of the Customs Act, 1962 within condonable period. Therefore, we condone the delay in filing the appeal before the ld.Commissioner (Appeals).

6. We further take note of the fact that the ld.Commissioner (Appeals) has not passed the order on merit. In that circumstances, after setting aside the impugned order, we remand the matter back to the ld.Commissioner (Appeals) to decide the appeal on merit after affording an opportunity of being heard to the appellant.

7. Appeal is disposed off by way of remand.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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