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

REGIONAL BENCH – COURT NO.1

Service Tax Appeal No.76209 of 2024

(Arising out of Order-in-Appeal No.142/Kol-North/Kol/19 dated 28.05.2019 passed by Commissioner of CGST & Central Excise, Kolkata)

M/s Debjani Dutta
(56/3, Das Para Lane, Kotrung, Hindmotor, Hooghly-712233)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Howrah
(15/1, Strand Road, Kolkata-700001)

Respondent

APPERANCE :

Shri Ajay Sanwaria, Advocate for the Appellant
Shri P.Das, Authorized Representative for the Respondent

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

FINAL ORDER NO.77428/2025

DATE OF HEARING : 17 SEPTEMBER 2025
DATE OF DECISION : 17 SEPTEMBER 2025

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the ld.Commissioner (Appeals) has dismissed the appeal as barred by limitation.

2. Admittedly, in this case, the adjudication order was communicated to the appellant on 21.02.2023, which is not disputed by the appellant and against the said order, the appeal has been filed before the ld.Commissioner (Appeals) on 18.08.2023, which is beyond the time limit prescribed under Section 85(3) of the Finance Act, 1994. Therefore, the ld.Commissioner (Appeals) has dismissed the appeal as barred by limitation.

3. Today, when the matter was called, the ld.Counsel for the appellant submits that they have filed an application for condonation of delay before the ld.Commissioner (Appeals) and as the appellant was not registered with the Central Excise Department and for filing appeal before the ld.Commissioner (Appeals), he has to make a mandatory predeposit in terms of Section 35F of the Central Excise Act, 1944, but they could not get ID, PASSWARD and Login for making payment. Therefore, the delay was caused and the ld.Counsel took time for not filing the appeal . The ld.Counsel also submits that there was no intention of the appellant to file appeal with a delay. Therefore, the delay be condoned.

4. The ld.A.R. for the Revenue supported the impugned order.

5. I find that in terms of Section 85(3) of the Finance Act, 1994, the ld.Commissioner (Appeals) have no power to condone the delay after filing appeal beyond the time limit prescribed under Section 85(3) of the Finance Act, 1994. The appeal has been filed with a delay. In that circumstances, I do not find any infirmity in the impugned order and the same is upheld.

6. In view of the above, the appeal filed by the appellant is dismissed.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

mm