

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**
REGIONAL BENCH – COURT NO.1

Customs Appeal No.77124 of 2019

(Arising out of Order-in-Appeal No.Kol/Cus/Airport/AA/455/2019 dated 02.07.2019 passed by Commissioner (Appeals) of Customs, Kolkata)

M/s Emami Ltd.

(106, Bangur Avenue, Block-C, Kolkata-700055)

Appellant

VERSUS

Commissioner of Customs (Port), Kolkata

15/1, Strand Road, Kolkata-700001

Respondent

APPEARANCE :

Shri Arvind Baheti, Chartered Accountant for the Appellant

Shri Subrata Debnath, Authorized Representative for the Respondent

CORAM:

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

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

FINAL ORDER NO.77936/2025

DATE OF HEARING : 16 DECEMBER 2025

DATE OF DECISION : 16 DECEMBER 2025

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the appeal has been dismissed by the Id.Commissioner (Appeals) as barred by limitation in terms of Section 128 (1) of the Customs Act, 1962.

2. The facts of the case are that the adjudication order was passed by the adjudicating authority on 15.05.2017 and the appeal against the said order, has been filed by the appellant on 20.07.2017 before the Id.Commissioner (Appeals). During the course of hearing, no objection was raised by the Id.Commissioner (Appeals) showing that the appeal has been filed with a delay, but the Id.Commissioner (Appeals) dismissed the appeal holding that the appeal has been filed beyond the period of 60 days as prescribed under Section 128 (1) of the Customs Act, 1962, which provides that if the assessee gives explanation for

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delay in filing of the appeal, the delay can be condoned by another 30 days. The appellant filed the appeal before the Id.Commissioner (Appeals) on 20.07.2017 and the same has been dismissed by the Id.Commissioner (Appeals) as barred by limitation. Against the said order, the appellant is before us.

3. Heard both the parties and considered the submissions.

4. We find that in terms of Section 128 (1) of the Customs Act, 1962, the assessee is required to file appeal before the Id.Commissioner (Appeals) within 60 days from the communication of the adjudication order but the period can be extended by another 30 days with the satisfaction to the reason for causing delay has been explained satisfactorily. In the impugned order, the Id.Commissioner has recorded that the adjudication order was received by the appellant on 24.05.2017 and the appeal has been filed on 20.07.2017, which is within limitation. Therefore, the Id.Commissioner (Appeals) was not required to dismiss the appeal on limitation as time bar, but required to pass an order on merit, which the Id.Commissioner (Appeals) has failed to discharge his duty. In that circumstances, we set aside the impugned order and remand the matter back to the Id.Commissioner (Appeals) to decide the appeal on merit within a period of sixty (60) days after affording an opportunity of being heard to the appellant.

5. 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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