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

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No. 76274 of 2024

(Arising out of Order-in-Appeal No. 112/JSR/2024 dated 28.06.2024 passed by Commissioner of CGST & Central Excise, Ranchi).

M/s Newtech,
(Aptech Computer Centre,
Tungri, Chaibasa, Jharkhand-833201)

...Appellant

VERSUS

Commissioner of CGST & Central Excise, Jamshedpur.
(Central GST & CX, Outer Circle Road, Bistupur, Jamshedpur-I)

.. ...**Respondent**

APPERANCE :
Mr. Sandipan Bajerjee, C. A. & Mr. Bijay Kr. Sharma, Advocate for the Appellant
Shri S. K. Jha, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)

FINAL ORDER No.75240/2026

DATE OF HEARING : 13.02.2026
DATE OF DECISION : 13.02.2026

PER R. Muralidhar :

The appellant is aggrieved by the dismissal of their appeal by the Commissioner Appeals on the sole ground that the same was filed in a delayed manner before him.

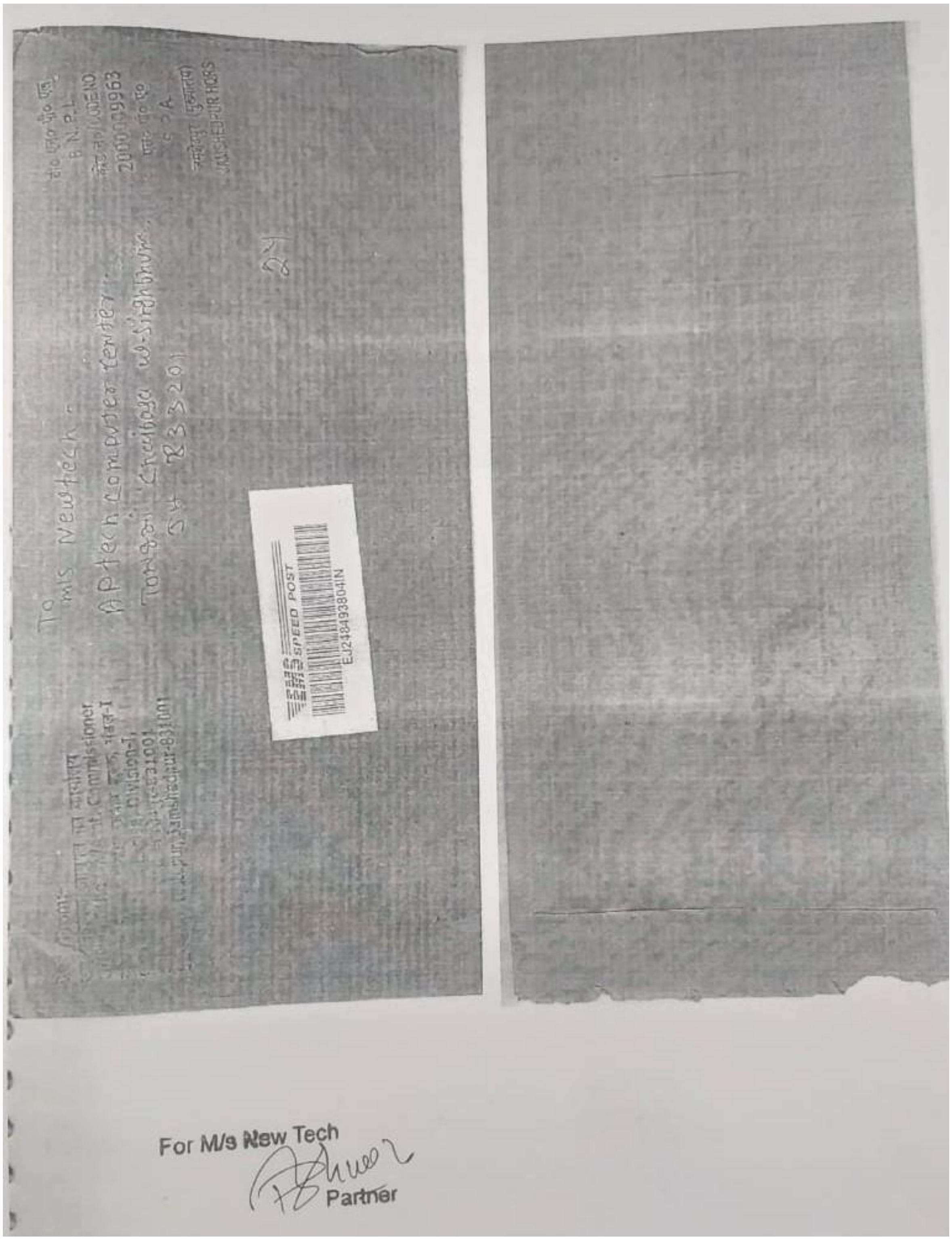
2. The learned counsel appearing on behalf of the appellant submits that the OIO (Order-In-Original) is dated 31/05/2022. This has been received by them on 20/04/2023. After this, the appeal was filed on 02/06/2023, which is within 60 days from the date of receipt of the OIO.

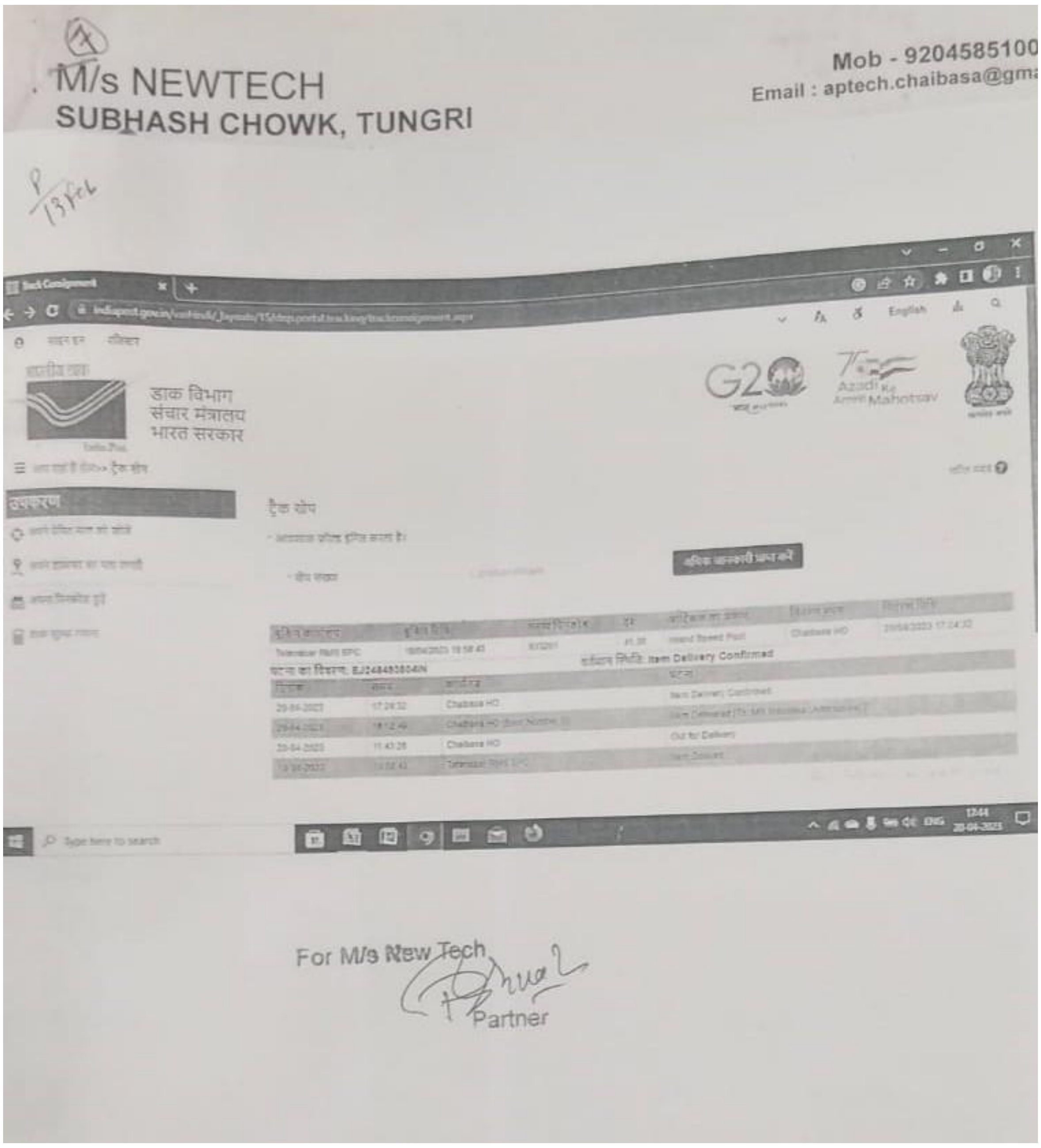
3. He submits that at Para 9 of the OIA (Order-In-Appeal), the Commissioner Appeals has held that there was a delay of 367 days by calculating the delay from 31/05/2022. Even as he has recorded that the appellant has submitted the OIO was received on 20/04/2023, still, he has ignored their pleadings. On the ground of delayed filing itself, the appeal has been dismissed by him. He prays that the present appeal may be allowed and the issue may be sent back to the Commissioner Appeals for hearing the case on merits.

4. The learned AR (Authorized Representative) appearing on behalf of the Revenue submits that the appellant has not clearly proved before the Commissioner Appeals that the order was received on 20/04/2023. The Commissioner has also noted that one letter was addressed to the Jurisdictional Assistant Commissioner, who, vide his letter dated 27/06/2024, has confirmed that the OIO was dispatched on 31/05/2022 by speed post. Only after such verification, the Commissioner Appeals has dismissed the appeal filed by the appellant. Therefore, he prays that the present appeal may be dismissed.

5. I have gone through the case records and the submissions made by both sides. The counsel has submitted a copy of the chronological events leading to the communication of the impugned OIO to the appellant. The details received from Speed Post are reproduced below:

Service Tax Appeal No. 76274 of 2024




M/s NEWTECH
SUBHASH CHOWK, TUNGRI
Mob - 9204585100
Email : aptech.chaibasa@gm
डाक विभाग
संचार मंत्रालय
भारत सरकार
English
G20
Azadi Ka Amrit Mahotsav
ट्रैक शोध
Item Delivery Confirmed
Out for Delivery
For M/s New Tech
Partner

6. From the above documents, it is seen that the document has been booked on 19/04/2023 and the appellant has received the same on 20/04/2023. Further, the fact that the appellant has told that the order was received on 20/04/2023 is already recorded at Para 9 of the OIA. Therefore, the Department cannot take the pleading that these facts were not submitted before the Commissioner Appeals. In respect of the relied-upon document of the Assistant Commissioner dated 27/06/2024,

I find that it is a simple, bland statement from his side stating that the OIO has been dispatched on 31/05/2022 without enclosing any proof towards the same. Therefore, the words of the Assistant Commissioner without adducing any evidence cannot be taken as correct as against the proper documentary evidence of speed post being produced by the appellant.

7. Holding that the order was indeed served on the appellant on 20/04/2023, I set aside the impugned order and allow the present appeal. The matter stands remanded to the Commissioner Appeals. He is directed to decide the issue on merits by following the principles of natural justice. The appeal is to be disposed off within four months from the date of receipt of this order.

(Dictated and pronounced in the open court)

Sd/-
(R. Muralidhar)
Member (Judicial)

T.K.