

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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75326 of 2024

(Arising out of Order-in-Appeal No. KOL/CUS/CCP/KS/738-739/2023 dated 27.09.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Sumant Keshari

: Appellant

S/o. Lt. Ramanand Keshari,
67, P.K. Saha Lane, Baranagar,
Kolkata – 700 036

VERSUS

Commissioner of Customs (Preventive)

: Respondent

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

AND

Customs Appeal No. 75327 of 2024

(Arising out of Order-in-Appeal No. KOL/CUS/CCP/KS/738-739/2023 dated 27.09.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Rajesh Kumar Sharma

: Appellant

S/o. Shri Laxmi Narayan Sharma,
95/1/3A, Cossipore Road, Cossipore,
Kolkata – 700 002

VERSUS

Commissioner of Customs (Preventive)

: Respondent

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

APPEARANCE:

Ms. Atika Sumran Ahmed, Advocate, for the Appellant(s)

Shri Tariq Sulaiman, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

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

FINAL ORDER NOs. 75658-75659 / 2026

DATE OF HEARING / DECISION: 22.05.2026

ORDER: [PER SHRI ASHOK JINDAL]

The appellants are in appeal against the impugned order wherein the Ld. Commissioner (Appeals) has dismissed their appeals on the ground of limitation in terms of Section 128(1) of the Customs Act, 1962.

2. The facts of the case are that against the Order-in-Original dated 31.03.2022, which was received by the appellants on 09.05.2022, the appellants had filed appeals before the Ld. Commissioner (Appeals) on 02.08.2022. The said appeals were dismissed by the Ld. Commissioner (Appeals) vide the impugned order as barred by limitation, in terms of Section 128(1) of the Customs Act, 1962, observing that the said appeals were required to be filed within the statutory time-period of 60 days from the date of communication of the adjudication order, i.e., by 08.07.2022, which the appellants had failed to do. Against the said order, the appellants are before us.

3. It is a fact on record that the Order-in-Original dated 31.03.2022 was received by the appellants on 09.05.2022. Appeals were thereafter filed before the Ld. Commissioner (Appeals) on 02.08.2022, i.e., with a delay of 25 days after expiry of the statutory time-period of 60 days for filing such appeals. In terms of Section 128 (1) of the Customs Act, 1962, an appeal is to be filed before the Ld. Commissioner (Appeals) within a period of sixty days from the date of receipt of the adjudication order under Section 128(1) of the Customs Act, 1962 and as per the proviso thereto, the said period can be extended for another 30 days if the Ld. Commissioner (Appeals) is satisfied with the reasons given for causing the delay. Admittedly, in the present case, the appeals were filed by the appellants

within such condonable period of 30 days, before the Ld. Commissioner (Appeals). The Ld. Commissioner (Appeals) is required to act judiciously while dealing with applications for condonation of delay. From a perusal of the records, we find that the appellants have been able to satisfactorily explain the reasons for the delay caused in filing such appeals before the Commissioner (Appeals). In view of the above, we condone the delay in filing the appeals before the Ld. Commissioner (Appeals) and set aside the impugned order.

4. Further, we observe that the impugned order has not considered the issue on merits. Accordingly, the matter is remanded to the Commissioner (Appeals), with a direction to decide the issue in appeal within a period of sixty days from the date of receipt of this Order, after affording reasonable opportunities of being heard to the appellants.

5. The appeals are disposed of by way of remand.

(Dictated and pronounced in the open court)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd