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

REGIONAL BENCH – COURT NO. 2

Customs (EH) Application No. 76259 of 2025
In
Customs Appeal No. 75111 of 2025

(Arising out of Order-in-Appeal No. Kol/Cus(Port)/KS/549/2024 dated 20.09.2024 passed by the Commissioner of Customs (Appeals) 3rd Floor, Custom House, 15/1, Strand Road, Kolkata-700001)

M/s. Texmaco Rail & Engineering Limited, **: Appellant**
Agarpara Works Belgharia Kolkata, West Bengal-700056

VERSUS

The Commissioner of GST & Central Excise, **: Respondent**
Khardah Division, GST Bhawan (8th Floor), 180, Shantipally, Rajdanga Main Road,Kolkata-700107

APPEARANCE:

Shri Bhaskar Thakkar, Advocate
Shri Aindrila Ghosh, Advocate for the Appellant

Shri P. Haldar, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO.76185/2026

DATE OF HEARING / DECISION: 16.09.2026

ORDER: [PER SHRI R. MURALIDHAR]

Being satisfied with the explanation given by the Ld. Consultant appearing on behalf of the appellant, we allow the early hearing application.

2. Considering that the issue is in a narrow compass, we have taken up the appeal itself for disposal, with the consent of both the sides.

3. The Ld. Consultant for the appellant submits that before the Commissioner (Appeals), they had filed a single appeal in respect of two Bills of Entry, along with their condonation petition. It is submitted that the Commissioner (Appeals) condoned the delay, but

dismissed their appeal on the ground that they should have filed two appeals whereas they had only filed one appeal. The Ld. Consultant points out that the entire amount in respect of both the Bills of Entry has already been paid and therefore, they meet the requirement of pre-deposit also.

4. After going through the factual details, we find that non-filing of a second appeal before the Commissioner (Appeals) is only a small defect, which should have been pointed out by the Commissioner (Appeals), which could then have been cured by the appellant. However, this was not done by the Commissioner (Appeals). We hold that non-filing of the second appeal by the appellant is a curable defect. We hold that the same stands cured.

5. Accordingly, the Commissioner (Appeals) should consider both the Bills of Entry as being litigated before him and pass a considered decision within a period of four months from the date of receipt of this Order.

6. The appeal stands disposed of by way of remand.

(Dictated and pronounced in the open court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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