## IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
### WEST ZONAL BENCH AT MUMBAI
### COURT No. I

**APPEAL No. ST/87341/16-Mum**

(Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP-0060-16-17 dated 24.6.2016 passed by Commissioner of Central Excise (Appeals), Pune-I)

**Hotel Satish Executive** **Appellant**

Vs.

**Commissioner of Central Excise, Pune-I** **Respondent**

<u>Appearance:</u>

Shri H.P. Kanade, Advocate, for appellant
Shri V.R. Reddy, Assistant Commissioner (AR), for respondent

**<u>CORAM:</u>**

**Hon'ble Mr. Ramesh Nair, Member (Judicial)**

Date of Hearing: 20.2.2018
Date of Decision: 20.2.2018

ORDER No. A/85312/2018

The facts of the case are that the appellant filed VCES declaration for an amount of Rs.17,44,035/-. The appellant was supposed to pay 50% of the said amount by 31$^{st}$ December 2013 which they failed to deposit. Against the 50% amount, they have paid Rs.7,07,259/-. Thus they have short paid Rs.1,64,759/- which was subsequently paid on 8.1.2014. Therefore, a show cause notice was issued proposing rejection of VCES on the ground that there is a stipulated time period after 31$^{st}$ December 2013 for deposit of the 50% amount. The adjudicating authority decided the

VCES by rejecting the same and held that the appellant is ineligible for the benefits under the VCES Scheme, 2005. It was also ordered to recover the amount declared along with interest under Section 87 of the Act as per Section 110 of the Act. The appellant filed appeal before the Commissioner (Appeals) which came to be rejected. Therefore the appellant is before me.

2. Shri H.P. Kanade, learned counsel appearing on behalf of the appellant, submits that the major amount of 50% due on 31.12.2013 was paid. Only a small amount of Rs.1,64,759/- could not be paid on the due date because the appellant was facing financial hardships. However, the same was made good by depositing the same on 8.1.2014. Therefore, the delay of only seven days should be condoned by the designated authority. He placed reliance on the decision of this Tribunal in the case of *CCE, Wardha vs. Cityland Associates, Amravati – 2016-TIOL-812-CESTAT-MUM*.

3. Shri V.R. Reddy, learned Assistant Commissioner (AR) appearing on behalf of the Revenue, reiterates the findings of the impugned order. He submits that as per VCES there is no provision for extension of time for making deposit of first 50% that is to be made on 31.12.2013.

4. I have carefully considered the submissions made by both the sides. I find that as per VCES scheme, the time limit

for making payment of 50% of the total amount declared is 31.12.2013 and there is no provision for extension of time to the statutory limit provided in the scheme. The designated authority has no power vested in it to extend the time limit. Therefore, the time limit provided in the scheme should have been adhered to for depositing the 50% amount by 31.12.2013 which the appellant failed to comply. As regards the judgment cited by the learned counsel in the case of *Cityland Associates* (supra), on going through the judgment, I find that in the said judgment, the appellant was prevented from making payment whereas the assessee tried making payment on the due date. Due to system fault, the payment could not be made. The circumstances of the said case were different from the present case. Knowingly the appellant has delayed in making payment of 50% which should have been statutorily made on 31.12.2013.

5. Accordingly, the impugned order does not require any interference. Hence the same is upheld. The appeal is dismissed.

(Pronounced in court)

**(Ramesh Nair)**
**Member (Judicial)**

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