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

**APPLICATION No. C/COD/92893/17-Mum**
**APPEAL No. C/87377/17-Mum**

(Arising out of Order-in-Original No. 11/RT/PC/2016-17 dated 31.1.2017 passed by Commissioner of Customs (Import), Mumbai)

**Aslam Khan** **Appellant**

Vs.

**Commissioner of Customs (Import), Mumbai** **Respondent**

Appearance:

Shri G.B. Yadav, Advocate, for appellant
Ms. Trupti Chavan, Assistant Commissioner (AR), for respondent

**CORAM:**

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

Date of Hearing: 20.2.2018
Date of Decision: 20.2.2018

ORDER No. M/85156/2018

The COD application is filed by the applicant on the direction of the Registry.

2. Shri G.B. Yadav, learned counsel appearing on behalf of the appellant, submits that in fact there is no delay in filing the appeal for the reason that the impugned order dated 31.1.2017 which was issued on 16.2.2017 was not received by the appellant. However, on persuasion by the counsel, the department had provided a copy of the impugned order only

on 14.6.2017 and the appeal was filed within the stipulated time period on 1.9.2017. Therefore, there is no delay.

3. Ms. Trupti Chavan, learned Assistant Commissioner appearing on behalf of Revenue, submits that the order was shown to have dispatched to the appellant on the given address. Therefore, it cannot be said that the order was not served. Therefore, there is a delay in filing the appeal.

4. On careful consideration of the submissions made by both the sides, I find that there is no evidence produced by the Revenue that the order was served to the appellant before 14.6.2017 and the appellant could obtain the copy of the impugned order only on 14.6.2017. The appeal was filed on 1.9.2017 which is well within the three months period. Therefore, there is no delay. Accordingly, the COD application is dismissed as infructuous. The appeal is admitted.

(Pronounced in court)

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

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