IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPLICATION NO: E/COD/85557/2018
IN
APPEAL NO: E/86463/2018

[Arising out of Order-in-Appeal No: GOA-EXCUS-000-APP-344-2016-17 dated 08.03.2017 passed by the Commissioner (Appeals), Pune Appeal-II]

TV Plastics **_Applicant_**

versus

Commissioner of Central Excise & Service Tax, Goa **_Respondent_**

Appearance:

Ms. Manasi Patil, Advocate for appellant

Shri A.B.Kulgod, Assistant Commissioner (AR) for respondent

CORAM:

Hon'ble Shri S.K. Mohanty, Member (Judicial)
Hon'ble Shri C.J. Mathew, Member (Technical)

Date of hearing: 07/08/2018
Date of decision: 07/08/2018

ORDER NO: A / 87560 / 2018

Per: S.K.Mohanty

There is delay of 313 days in filing this appeal before the Tribunal. The applicant has stated the reason that due to financial difficulties it could not pre deposit the amount, as per the requirement of Section 35 F of the Central Excise Act, 1944. Subsequently, on arrangement of funds, such amount was deposited and thereafter, the appeal was filed before the Tribunal. The reason of delay explained by the appellant seems reasonable and accordingly, in the interest of justice, the delay caused in filing appeal is condoned. Since the issue lies in a narrow compass, with the consent of both sides, the appeal is taken up for hearing and disposal today.

2. We find that the Learned Commissioner (Appeals) vide the impugned order dated 08.03.2017 has dismissed the appeal filed by the appellant on the ground that the same was filed beyond the condonable period prescribed in the statute. He has relied on the judgment of Hon'ble Supreme Court in the case of Singh Enterprises Vs. CCE, 2008 (221) ELT 163 (SC) in dismissing the appeal of the appellant. In context with the time limit for entertaining the appeal filed under section 35 A of the Central Excise Act, 1944, the Hon'ble Supreme Court have ruled that the Commissioner (Appeals) has no power to condone delay beyond 30 days, after the expiry of statutory time limit of 60 days. Since the law with regard to limitation for filing of appeal is no more res integra, we are of the view that the Commissioner (Appeals) has correctly rejected the appeal filed by the appellant.

3. Therefore, we do not find any infirmity in the impugned order passed by the Learned Commissioner (Appeals). Accordingly, appeal filed by the appellant is dismissed.

(Pronounced & Dictated in Court)

(C.J. Mathew)
Member (Technical)

(S.K. Mohanty)
Member (Judicial)

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