CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Miscellaneous Application No. 86815 of 2018
(On behalf of Appellant)

In

Excise Appeal No. 89614 of 2018

(Arising out of Order-in-Appeal No. NGP/EXUS/000/APPL/571/15-16/103 dated 22.12.2005 passed by the Commissioner of Central Excise & Service Tax (Appeals), Nagpur)

M/s Grainotch Industries Ltd. **.... Appellant**
Gut No. 238/239, Bhendale, Aurangabad-Ahmednagar Road
Gangapur, Aurangabad, Maharashtra

Versus

Commissioner of Central Excise & Service Tax, Aurangabad **.... Respondent**
N-5, Town Centre, CIDCO, Aurangabad

Appearance:

None for the Appellant

Shri N.N. Prabhudesai, Supdt., Authorized Representative for the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86249 / 2019

Date of Hearing: 16.07.2019
Date of Decision: 16.07.2019

Per: Dr. D.M. Misra

None present for the appellant. Matter has been listed on 12.03.2019, 25.03.2019, 26.04.2019, 18.06.2019 and today on 16.07.2019. On all the occasions, appellant sought adjournment on one pretext or other. Today, even no adjournment request has been advanced. The learned AR for the Revenue submits that further adjournment in the matter would not yield any result. Consequently, miscellaneous application seeking condonation of delay has been taken up for disposal.

2. Learned AR for the Revenue submits that the impugned Order-in-Appeal dated 22.12.2015 was communicated to the appellant on 05.01.2016. The appellant filed the present appeal on 13.11.2018, therefore, there has been a delay of approximately 953 days in filing the appeal. He submits that the reasons mentioned in the application are vague and not convincing, therefore, inordinate delay of 953 days may not be condoned.

3. I have carefully considered the submissions and the grounds seeking condonation of delay reflected in the miscellaneous application. The applicant while seeking the condonation of inordinate delay of 953 days mentioned that there was labour strike from August, 2014 and the production was under suspension during those days and the Director and Chairman were also under medical treatment; Vice President (Finance) resigned in 2017. The grounds/reasons narrated in the application do not inspire confidence that the delay was beyond their control and there was no negligence on part of the appellant in filing appeal before this Tribunal. Hence, it cannot be considered as sufficient cause for condonation of

delay of 953 days, in view of the principles laid down by the Hon'ble Supreme Court in the case of *Chief Post Master General Vs. Living Media India Ltd. – 2012 (277) ELT 289 (SC).* Consequently, following the aforesaid precedent, delay is not condoned and miscellaneous application is dismissed.

4. In the result, the appeals are also dismissed.

(Dictated and pronounced in open court)

(Dr. D.M. Misra)
Member (Judicial)

Sinha