CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST REGIONAL BENCH – COURT NO. 3

Service Tax Appeal No: 87447 of 2015

[Arising out of Order-in-Appeal No: NGP/EXCUS/000/APP/273/15-16 dated 12th August 2015 passed by the Commissioner of Central Excise & Customs (Appeals), Nagpur.]

United Infrastructure … ***Appellant***
14 Ravi Chamber, Canada Corner, Nashik, 422 002

versus

Commissioner of Central Excise & Customs …***Respondent***
Kendriya Rajaswa Bhawan, Gadkari Chowk,
Old Agra Road, Nasik 422 002

APPEARANCE:

Ms Tejal Patil, Advocate for the appellant

Shri Dilip Shinde, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: A/86489 / 2019

DATE OF HEARING: 15/07/2019
DATE OF DECISION: 15/07/2019

PER: C J MATHEW

This appeal arises from the rejection by Commissioner of Central Excise & Customs (Appeals), *vide* order-in-appeal no. NGP/EXCUS/000/APP/273/ 15-16 dated 12th August 2015, of the challenge to the order of the original authority for having been filed beyond the time-limit prescribed in section 85(3A) of Finance Act, 1994.

2. Learned Counsel for the appellant submits that this disposal is erroneous inasmuch as the certificate, issued by the Assistant Commissioner of Central Excise and Customs, Nasik – I, has clarified that the order impugned before the first appellate authority had been dispatched only on 24th November 2014. Accordingly, the appeal should have been filed by 23rd January 2015 without the need for any condonation of delay and by the 23rd February 2015 with application for condonation of delay. From the record it was pointed out that the appeal was filed on the 27th January 2015 and, therefore, within the period condonable by the first appellate authority.

3. We have heard Learned Authorised Representative.

4. The finding of the first appellate authority that the delay is beyond the scope of condonation is incorrect. We, therefore, remand the matter back to the first appellate authority to dispose off the appeal on merit.

(Pronounced in open court)

(C J Mathew)
Member (Technical)

(Ajay Sharma)
Member (Judicial)

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