CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.1

Miscellaneous Application No.ST/COD/85598/2019
(on behalf of Appellant)
in **Service Tax Appeal No.86544 of 2019**

[Arising out of Order-in-Appeal No.PUN-CT-APPII-000-121-18-19, dt.16.10.2019, passed by the CCE (Appeals-II), Pune]

M/s Chaitanya Realty **......Appellant**
602, Pulachi Wadi, Deccan Gymkhana,
Pune 411 004

VERSUS

Commissioner, Central Tax, Pune-II **......Respondent**
CGST, Pune-II Commissionerate,
41/A, Sasoon Road, ICE House, Opp. Wadia College,
Pune 411 001

Appearance:
For Appellant : None
For Respondent : Shri N.M. Tagade, DC (AR)

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.A/87226/2019

Date of Hearing: 03.12.2019
Date of Decision: 03.12.2019

PER: DR.D.M. MISRA

None present for the Appellant. Heard the learned A.R. for the Revenue.

2. This miscellaneous application has been filed by the Appellant seeking condonation of delay of 108 days in filing the appeal before

this forum. In the application, it is mentioned that one of their mentor Shri Vijay Mittal had been hospitalized from 25.12.2018 to 25.04.2019, hence could not attend the business. It is stated that he was suffering from spine issue. However, no medical certificate is submitted in support of the same.

3. The learned A.R. for the Revenue submits that no evidence has been placed to show that Shri Vijay Mittal is involved in the business of the Appellant, as a partner or as a senior officer in the company. Therefore, his absence cannot be considered as vital to running the affairs of the Company. Further, he has submitted that the learned Commissioner (Appeals) has rejected their appeal also on the ground of delay of 148 days in filing appeal before him, following the principle laid down by Hon'ble Supreme Court in the case of Singh Enterprises Vs UoI – 2008 (221) ELT 163 (SC). It is his contention that since the explanation furnished by the Appellant is vague and cannot be considered as sufficient warranting condonation, therefore the application be rejected. In support, he has referred to the judgment of Hon'ble Supreme Court in the case of Chief Post Master General Vs. Living Media India Ltd – 2012 (277) ELT 289 (SC).

4. We have carefully gone through the COD application seeking condonation of inordinate delay of 108 days. The reasons furnished by the Applicant for the delay cannot be considered as sufficient ground warranting condonation, inasmuch as nowhere in the application the role/status of Shri Vijay Mittal in the Appellant Company has been disclosed and merely because he could be

considered as their mentor, his absence would have stopped the operation of the Company, is unacceptable to condone the inordinate delay.

5. In the result, the MA(COD) is rejected. Consequently, appeal is also rejected.

(Dictated and pronounced in the open court)

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

(Sanjiv Srivastava)
Member (Technical)

Bahalkar