

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

WEST ZONAL BENCH – MUMBAI

Customs Early Hearing Application No. 86444 of 2019

In

Customs Appeal No. 85264 of 2014

Arising out of Order-In-Appeal No. 990(Gr,V)/2013(JNCH)/IMP-761 dated 23-10-2013 passed by the Commissioner of Customs (Appeals) JNCH, Nhava Sheva.

ATLAS COPCO INDIA LTD

.....Appellant

Svenagar
Dapodi
PUNE 411012

VERSUS

**Commissioner of Customs
(IMPORT) NHAVASHEVA**

.....Respondent

Jawaharlal Nehru Custom House
Post Uran District
Raigad, SHEVA 400707

AND

Customs Early Hearing Application No. 86445 of 2019

In

Customs Appeal No. 85265 of 2014

Arising out of Order-In-Appeal No. 02 (Gr,V)/2013(JNCH)/IMP-02 dated 21-1-2013 passed by the Commissioner of Customs (Appeals) JNCH, Nhava Sheva.

ATLAS COPCO INDIA LTD

.....Appellant

Svenagar
Dapodi
PUNE 411012

VERSUS

**Commissioner of Customs
(IMPORT) NHAVASHEVA**

.....Respondent

Jawaharlal Nehru Custom House
Post Uran District
Raigad, SHEVA 400707

APPEARANCE:

Shri Jayadeas S., Sr. Manager for the Appellant
Shri K.K. Srivastava, Addl. Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. C J MATHEW, MEMBER (TECHNICAL)

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85279-85280/2020

DATE OF HEARING: 19-02-2020

DATE OF DECISION: 19-02-2020

PER: CORAM

These applications seek out of turn disposal of appeals no. C/85264/2014 and C/85265/2014 against order-in-appeal no. 990(Gr,V)/2013(JNCH)/IMP-761 dated 23-10-2013 and order-in-appeal No. 02 (Gr,V)/2013(JNCH)/IMP-02 dated 21-1-2013 of Commissioner of Customs (Appeals) JNCH, Nhava Sheva.

2. Authorised representative of the appellant submits that the matter has been pending for a substantially long period and application for out of turn may be allowed.

3. We have heard the Authorised Representative.

4. As the issue involved is limited to relevant date along with dismissal of appeals by first appellate authority solely for having been delayed beyond the condonable period, we take the appeals for disposal. On perusal of impugned order, we find that first appellate authority has

noted the delay of 965 and 842 days respectively for disposal of appeals. We also find that the issue impugned before first appellate authority was rejection of applications made under Section 149 of Customs Act, 1962. The said rejection, dated 28th August 2012, renders the filing of appeal to have been within the period by first appellate authority. Accordingly, we remand the matter to first appellate authority with direction to dispose off the appeals on merits.

(Dictated and pronounced in open court)

(C J MATHEW)
MEMBER (TECHNICAL)

(DR. SUVENDU KUMAR PATI)
MEMBER (JUDICIAL)