CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH

Excise Appeal No. 85111 of 2019

(Arising out of Letter F. No. VIII (Cus) 35/DBK-16/NSK-II/2015/1831 dated 16.10.2017 issued by Assistant Commissioner (Tech), GST & Central Tax, Nashik)

M/s. John Distilleries Pvt. Ltd. **Appellant**
Branch # 4 Chitali, VPO Rahata,
Ahmednagar, Maharashtra

Vs.

Commissioner of Cen. Ex., Nasik **Respondent**
Kendriya Rajaswa Bhawan,
Old Agra Road, Gadkari Chowk,
Nasik 422 002.

Appearance:

None for the Appellant
Shri N.N. Prabhudesai, Superintendent, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO. **A/86815/2021**

Date of Hearing: 17.09.2021
Date of Decision: 17.09.2021

This appeal has been filed by the appellant against letter F. No. VIII (Cus) 35/DBK-16/NSK-II/2015/1831 dated 16.10.2017 of the Assistant Commissioner (Tech), GST & Central Tax, Nashik, stating as under:-

"To

M/s. JOHN Distilleries Pvt. Ltd.,
At Post Chitali Tal. Rahata,
Dist. Ahemednagar

Gentleman,

Sub:- Request for condone of delay in submission of DBK application dated 18.3.2017 beyond stipulated time time period of 6 months – Reg.

Please refer to your above cited letter on the above subject.

With reference to above mentioned subject, I am hereby directed to inform you that your application for condonation of delay dated 18.03.2017 is rejected by the competent authority on the reasons that your company is a multinational company having best manpower, resources, talent and infrastructure. Further there is no valid and specific reasons given for such delay.

Yours sincerely,

Sd/-
(D.K. Mishra)
Assistant Commissioner (TECH HQ)
GST & Central Tax
Nashik"

2.1 Against this letter, the appellant has first proceeded to file an appeal before the Revisionary Authority. Dismissing the appeal, the Revisionary Authority has in para 11 of his order No.704/2018-CX(WZ)/ASRA dated 28.09.2018, observed as under:-

"11. Government therefore finds that the Revision Application before the Central Government in terms of Section 35EE of Central Excise Act, 1944 in the present case by the Applicant is beyond jurisdiction. As such, the Revision Application is dismissed for being non-maintainable. The Applicant is at liberty to file an appeal before the appropriate authority under Section 35E of Central Excise Act, 1944."

Hence the appellant preferred this appeal before the Tribunal, which was registered in the Tribunal on 14.01.2019.

3.1 When the matter was called for hearing today, none appeared for the appellant. Since the appellant has been choosing to abstain from hearing before the Tribunal, the appeal is liable to be dismissed under Rule 20 of the CESTAT (Procedure) Rules, 1982. Further, I find that this appeal has been filed by the appellant against letter dated 16.10.2017 on

14.01.2019 after considerable delay. There is no application for condonation of delay in filing the appeal.

3.2 No appeal lies in Tribunal against the order of Revisionary Authority.

3.3 Accordingly the appeal is dismissed for non-prosecution under Rule 20 of the CESTAT (Procedure) Rules, 1982 for reasons stated above and also for reasons of being filed much beyond the time limit provided for filing this appeal.

(Order pronounced in the open court)

(Sanjiv Srivastava)
Member (Technical)

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