CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. 01

Customs Appeal No. 87816 of 2014

(Arising out of Order-in-Appeal No. 1703(GR.I)/2014(JNCH)/IMP-1644 dated 09.04.2014 passed by Commissioner of Customs (Appeals), Mumbai-II, JNCH, Nhava Sheva)

Tata Chemicals Ltd **.....Appellant**
Leela Business Park Ground Floor,
Andheri Kurla Road, Andheri East,
Mumbai 400 059.

VERSUS

Commissioner of Customs (Import), **.....Respondent**
Nhava Sheva
Jawaharlal Nehru Custom House, Post Uran,
District – Raigad, Nhava Sheva – 400 707.

Appearance:

Shri Akhilesh Kangsia a/w Shri T.Vishwanathan, Advocates for the Appellant

Shri Deepak Sharma, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85502/2024

Date of Hearing : 03.05.2024
Date of Decision: 03.05.2024

PER : S. K. MOHANTY

Heard both sides and examined the case records.

2. This appeal is directed against the impugned order dated 09.04.2014 passed by the learned Commissioner of Customs (Appeals), Mumbai-II, JNCH, Nhava Sheva. Vide the impugned order, the learned Commissioner (Appeals) has rejected the appeal filed by the appellant on the ground that the appeal was belatedly filed before him beyond the statutory time limit of 60 days provided under Section 128 of the Customs Act, 1962. He has further held that the appeal was preferred on the 30th day thereafter and no convincing explanation was furnished in support of condonation of such delay.

3. We find that the learned Commissioner (Appeals) under paragraph 8(i) of the impugned order has recorded the submissions made by the appellant in support of condonation of delay. Such findings are extracted herein below:

> *"(i) the issue being controversial, the appellant had preferred the matter for expert advice of its taxation deptt and external consultants as also for obtaining feedback from other industry participants which incurred a considerable time."*

On reading of the explanation furnished by the appellant in support of condonation of delay application, we are convinced that such grounds urged before the learned Commissioner (Appeals) were sufficient enough to condone the delay. However, the learned Commissioner (Appeals) has not specifically assigned any reason in support of his decision to deny the appellant for filing the appeal within further period of thirty days under the proviso to Section 128(1) *ibid*. Thus, under such circumstances, we are of the view that ends of justice would be met, if the delay is condones for a decision on merits.

4. Accordingly, the delay caused in filing the appeal is condoned and the matter is remanded back to the learned Commissioner (Appeals) for deciding the issue(s) involved in the appeal in accordance with law. Needless to say, that reasonable opportunity of personal hearing should be granted to the appellant before deciding the issue(s) afresh.

5. In the result, the appeal is allowed by way of remand.

(Dictated and pronounced in the open court)

(S. K. Mohanty)
Member (Judicial)

(M. M. Parthiban)
Member (Technical)

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