CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 87891 of 2014

(Arising out of Order-in-Appeal No. 1695 (Gr.IA)/2014 (JNCH)/IMP-1636 dated 08.04.2014 passed by the Commissioner of Customs (Appeals), Mumbai-II)

M/s 3M India Pvt. Ltd. .... Appellant
Concorde Block, UB City, 24, Vittal Malya Road
Bangalore - 56001

Versus

Commissioner of Customs (Import), Mumbai-II .... Respondent
JNCH, Nhavha Sheva, Taluka – Uran,
Raigad, Maharashtra - 400707

Appearance:

Ms. Anjali Hirawat, Advocate 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/85514/2024

Date of Hearing: 02.04.2024
Date of Decision: 02.04.2024

PER: S.K. MOHANTY

Heard both side and perused the records.

2. This appeal is directed against the impugned order dated 08.04.2014 passed by the learned Commissioner (Appeals), Mumbai-II. In the said order, the learned Commissioner (Appeals) has rejected the appeal filed by the appellant on the ground that the delay caused in filing the appeal was not satisfactorily explained.

3. When the matter was called for hearing, learned Advocate appearing for the appellant submitted a date chart before the Bench and stated that there is no delay in filing the appeal before the office of the Commissioner (Appeals) inasmuch as, on the direction of the Deputy

Commissioner through endorsement made in the letter of the appellant dated 02.09.2013, the appeal was preferred by the appellant before the Office of the Commissioner (Appeals) on 01.10.2013, which is well within the prescribed time limit of sixty days. Further, she also submitted that even considering the date of Bills of Entry as the relevant date, the delay of 20 days in filing of appeal, beyond the prescribed limit of sixty days was also reasonable, in view of the fact that the appellant took up the issue with the original authority for passing of re-assessment order on the B/Es with consequential refund of excess duty levied and paid.

4. On perusal of the case records, we find that the learned Commissioner (Appeals) has not assigned any satisfactory reason for not condoning the delay of 20 days in filing the appeal before him. However, on examination of the documents available in the case file, we are of the view that the ends of justice would be met, if the delay is condoned and the appeal is taken up for hearing by the learned Commissioner (Appeals) for a decision on merits.

5. Therefore, the delay in filing the appeal before the Commissioner (Appeals) is condoned and the matter is remanded back to him for deciding the appeal afresh on the basis of available records and the documents to be submitted by the appellant at the time of hearing of appeal. Needless to say, that the appellant should be given a reasonable opportunity of personal hearing to explain their case before deciding the matter on merits.

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

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

Sinha