CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 88501 of 2014

(Arising out of Order-in-Appeal No.2273 (Gr.II A-F)/2014(JNCH)/IMP-2183 dated passed by the Commissioner of Customs (Appeals), Mumbai-II)

Toyo Ink (I) Ltd. **.... Appellant**
A-228, Okhla Industrial Area,
Phase-I, New Delhi- 110 020.

Plot No.17, Ecotech Kendra Udyog,
Kandra Greater Noida,
Dist. Gautam Budh Nagar- 201 306.

Versus

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

Appearance:

Shri Lalitendra Gulani, Advocate for the Appellant

Shri D.S. Mann, 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/85861/2024

Date of Hearing: 29.08.2024

Date of Decision: 29.08.2024

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. This appeal is directed against the impugned order dated 29.05.2014 passed by the learned Commissioner of Customs (Appeals), Mumbai-II. Vide the impugned order, the learned Commissioner (Appeals) has rejected the appeal filed by the appellant on the ground of limitation of time. He has held that the

adjudication order was received by the appellant on 16.11.2013 and thereafter, the appeal was preferred before him on 10.03.2014 and as such, there is a delay of 114 days in filing the appeal before him. Insofar as the time limit for filing of appeal before Commissioner (Appeals), is concerned, Section 128 of the Customs Act, 1962 provides that the appeal has to be preferred within a period of 60 days from the date of communication of the order to be appealed against. The Commissioner (Appeals) is empowered to condone the delay up to the further period of 30 days. In the present case, since the delay is more than 30 days from the expiry of the normal period of 60 days, in our considered view, the Commissioner (Appeals), is not empowered to condone the delay in filing of appeal by the appellant. With regard to the limitation aspect contained in Section 128 *ibid*, the Hon'ble Supreme Court in the case of *Singh Enterprises v. Commissioner of Central Excise, Jamshedpur,* reported in 2008 (221) E.L.T. 163 (SC), has held that since, the statute provide specific time limit, that has to be strictly adhere to and the Court or Tribunal are not empowered to condone such delay in filing of the appeal.

3. In view of the above, we do not find any merits in the appeal filed by the appellant and accordingly, dismiss the same.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM