

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

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 86822 OF 2014

[Arising out of Order-in-Appeal No: 486(Gr.VA)/2014(JNCH)/IM-459 dated 14th February 2014 passed by the Commissioner of Customs (Appeals), Mumbai – II.]

Siemens Ltd

130 Pandurang Budhkar Marg, Worli
Mumbai - 400018

... Appellant

versus

Commissioner of Customs (Import)

Jawaharlal Nehru Custom House, Nhava Sheva
Tal: Uran, Dist Raigad - 400707

...Respondent

APPEARANCE:

Shri Anil Balani, Advocate with Ms Priyanka Pawar, Advocate for the appellant

Shri Ram Kumar, Assistant Commissioner (AR) for the respondent

CORAM:

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

HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 86128/2024

DATE OF HEARING:	03/10/2024
DATE OF DECISION:	03/10/2024

PER: C J MATHEW

The limited issue in this appeal of M/s Siemens Ltd against order¹
of Commissioner of Customs (Appeals), Mumbai – II is that the first

¹ [order-in-appeal no. 486(Gr.VA)/2014(JNCH)/IM-459 dated 14th February 2014]

appellate authority, in disposing off their appeal as barred by limitation under section 128 of Customs Act, 1962, had not accepted their justification for the delay of twenty one days beyond the initial period of sixty days from the date of receipt of the order impugned in the appeal.

2. According to Learned Counsel for the appellant, they had informed in their application before the first appellate authority that they had been awaiting ‘speaking order’, as prescribed in section 17(5) of Customs Act, 1962, and that, on realizing that the same was not to be forthcoming, appeal as provided for in Customs Act, 1962 had been filed.

3. We have heard Learned Authorised Representative.

4. On perusal of the impugned order, we find that the plea of the appellant for condoning the delay which was within the discretionary powers of the first appellate authority had been disposed off without proper application of mind. This, according to us, is not a proper outcome. Accordingly, we set aside the impugned order and remand the matter back to the first appellate authority to be decided on merits.

(Operative Part of the Order pronounced in the open court on 3rd October 2024)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)