CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

EXCISE APPEAL NO: 85108 OF 2016
IN
EXCISE CROSS-OBJECTION NO: 91037 OF 2016
(on behalf of respondent)

[Arising out of Order-in-Appeal No: CD/619 & 620/RGD/2015 dated 31st July 2015 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – II.]

Siddhant Industries Pvt. Ltd.
Ransai Village, Khopoli-Pen Road
Tal: Khalapur, Dist: Raigad … ***Appellant***

versus

Commissioner of Central Excise
Raigad
Plot No.1, Sector 17, Khandeshwar
Navi Mumbai - 410206 ***...Respondent***

WITH

EXCISE APPEAL NO: 85109 OF 2016
IN
EXCISE CROSS-OBJECTION NO: 91043 OF 2016
(on behalf of respondent)

[Arising out of Order-in-Appeal No: CD/619 & 620/RGD/2015 dated 31st July 2015 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – II.]

Vineet Agarwal
Siddhant Industries Pvt. Ltd.
Ransai Village, Khopoli-Pen Road
Tal: Khalapur, Dist: Raigad … ***Appellant***

versus

Commissioner of Central Excise
Raigad
Plot No.1, Sector 17, Khandeshwar
Navi Mumbai - 410206 ***...Respondent***

APPEARANCE:

Shri Neerav Mainkar, Advocate for the appellants

Shri C S Vinod, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO: _87605-87606/2024

DATE OF HEARING:	26/07/2024
DATE OF DECISION:	26/07/2024

PER: S.K. MOHANTY

These appeals are directed against the impugned order dated 08/09/2015 passed by the Learned Commissioner of Central Excise, Bandra (East), Mumbai. In the impugned order, appeals filed by the appellants were rejected on the ground of time-bar aspects. The Learned Commissioner (Appeals) has held that the original orders were received by the appellants on 27/12/2013 and thereafter, the appeals were preferred him on 26/03/2014 and thus, there is delay of 29 days in filing the appeals by the appellants. Further, he has also held that no convincing reason was furnished by the appellants in support of condonation of delay.

2. Heard both sides and perused the case records.

3. We find that in the application for condonation of delay filed before the Learned Commissioner (Appeals), the appellants

had stated that the manufacturing activities were stopped and the concerned staff looking after the Central Excise matters went on leave, keeping the impugned order in his office drawer and that when the said office staff resumed the duties, the appellants have contacted the Advocate and accordingly, the appeals were filed in the office of the Commissioner (Appeals). On reading of the impugned order, we find that the Learned Commissioner (Appeals) has not dealt with the submissions made by the appellants in proper prospective, in support of the request for condoning the delay caused in filing the appeals and without considering the merits of the case, has simply rejected the appeals on the ground of limitation.

4. Considering the fact that the factory of the appellant company was closed and that the concerned staff looking after the matter was away from the factory, we are of the view that ends of justice would be met, if the delay caused in filing the appeal is condoned. Accordingly, we condone the delay in late filing of appeal by the appellants before the Learned Commissioner (Appeals). Further, we also find that the original authority had passed the adjudication order dated 25/10/2013 ex-parte. Therefore, we are of the view that the matter arising out of the present appeals should be discussed and reasoned/speaking order to be passed by the original authority.

5. In view of the foregoing discussions, the impugned order is set aside and the appeals are allowed by way of remand to the

original authority for *denovo* adjudication. Needless to say that opportunity of personal hearing should be granted by the original authority before passing of the fresh adjudication order.

6. In the result, the appeals are allowed by way of remand.

(Pronounced in Open Court)

(S.K. MOHANTY)
Member (Judicial)

(P. ANJANI KUMAR)
Member (Technical)

**/as*