CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH

Excise Appeal No: 88405 of 2018

[Arising out of Order-in-Appeal No. NGP-I/APPL/141/2017-18 dated 07.05.2018 passed by the Commissioner of CGST & Central Excise, Nagpur-I.]

Umesh Goel … ***Appellant***
M/s Om Steel, Flat No. 3, Wing No. 28
Nityanand Society, Chembur, Mumbai – 400 074

versus

Commissioner of Central Excise
Customs & Service Tax ***…Respondent***
N-5, Town Centre, CIDCO, Aurangabad – 431 030

APPEARANCE:

Shri Mayur Jain, Advocate for the appellant

Shri Dhanjay Dahiwale, Deputy Commissioner (AR) for the respondent

CORAM:

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

FINAL ORDER NO: 86027 /2026

DATE OF HEARING : 06.08.2026
DATE OF DECISION: 06.08.2026

Heard both sides and perused the case records.

2. Feeling aggrieved with the impugned order dated 07.05.2018, passed by the Commissioner (Appeals), Central Excise, Nagpur, the appellant has preferred this appeal before the Tribunal. The learned Commissioner (Appeals) has dismissed the appeal filed by the appellant on the ground that the same was preferred before him beyond the statutory time-limit of 60 days. On perusal of the case records, I find that the adjudication order dated 31.03.2016 was received by the appellant on 02.07.2016 and thereafter, the appeal memorandum was sent by speed-post

to the office of Commissioner (Appeals) on 29.08.2016 and the said appeal was received in the office of Commissioner (Appeals) on 31.08.2016. The appellant has also submitted tracking report issued by the India Post, evidencing the fact that the adjudication order was received by it on 02.07.2016. The learned Commissioner (Appeals) at paragraph 10.1 of the impugned order has also accepted the fact that the order dated 31.03.2016 was received by the appellant on 02.07.2016 and, thereafter, the appeal was filed on 31.08.2016. Insofar as filing of the appeal before the office of Commissioner (Appeals) is concerned, sub-section (1) of Section 35 of Central Excise Act, 1944 provides that appeal shall be filed within a period of 60 days from the date of communication of the decision or order to the appellant. In the present case, since the Commissioner (Appeals) has accepted the fact that the adjudication order was received by the appellant on 02.07.2016 and the appeal was preferred before him on 31.08.2016, I am of the view that there is no delay in filing the appeal before him.

3. Since the learned Commissioner (Appeals) has dismissed the appeal solely on the ground of limitation, without discussing the merit of the case, I am of the view that the appeal filed by the appellant should be restored to the original number in the case file available before him and should be decided on the basis of merits. Therefore, the impugned order is set aside and the appeal is allowed by way of remand to the learned Commissioner (Appeals) for deciding the appeal on merits. Needless to say, reasonable opportunity of personal hearing should be granted to the appellant before deciding the appeal afresh.

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

(Dictated and Pronounced in Open Court)

(S.K. MOHANTY)
Member (Judicial)

**/as*