

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,  
KOLKATA**

REGIONAL BENCH – COURT NO.2

**Service Tax Appeal No.76495 of 2018**

(Arising out of Order-in-Appeal No.24/Bol/CT(Audit-II)/2017-18 dated 13.02.2018 passed by Commissioner (Appeals) of Central Excise, Kolkata II)

**M/s The Commandant, CISF, DVC Unit**

DTPS, P.O.-Durgapur, Pin-713207, Dist.-Burdwan, West Bengal

**Appellant**

*VERSUS*

**Commissioner of Central Excise & Service Tax, Bolpur**

Nanoor Chandidas Road, SIAN, Bolpur, Dist.-Birbhum, Pin-731204

**Respondent**

Appearance:

Shri N.K.Chowdhury, Advocate for the Appellant

Shri S.S.Chattopadhyay, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE SHRI P. K. CHOUDHARY, JUDICIAL MEMBER**

**FINAL ORDER NO.75305/2022**

DATE OF HEARING : 10.06.2022

DATE OF DECISION : 10.06.2022

**PER P.K.CHOUDHARY :**

Heard both sides and perused the appeal records.

2. On perusal of records, I find that the Order-in-Original dated 09.11.2012 was received by the appellant on 24.11.2012 and accordingly, they were required to file an appeal before the first appellate authority on or before 24.01.2013, but the appeal was filed only on 01.02.2013 i.e. after a delay of seven (7) days. The Ld.Commissioner (Appeals) could not condone the delay as the appellants did not adduce any cause for such condonation. Accordingly, the Ld.Commissioner (Appeals) rejected the appeal being time-barred without going into the merits of the case.

3. I find that though the appeal was filed beyond the statutory period of 60 days, but it was filed well within the condonable period of 30 days, I, accordingly, condone the delay in filing of the appeal before the first appellate authority. Since the lower appellate authority has

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not decided the appeal on merit, I find it appropriate to remand the matter to the lower appellate authority to decide the appeal on merit without visiting the aspect of limitation. Needless to mention, a reasonable opportunity of hearing be granted to the appellant to present their case. Both sides are at liberty to produce evidences in their support.

4. In the result, the Appeal filed by the appellant is allowed by way of remand.

(Dictated and pronounced in the open court.)

Sd/  
**(P.K.Choudhary)**  
**Member (Judicial)**

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