

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

REGIONAL BENCH - COURT NO. I

**Customs Appeal No. 85718 of 2020**

(Arising out of Order-in-Appeal No. 15(CAC)/2020(JNCH)/APPEAL-I dated 11.02.2020 passed by the Commissioner of Customs (Appeals), Nhava Sheva, Mumbai-II)

**M/s SGL Carbon India Pvt Ltd**

**.... Appellant**

Plot No E-100, Ranjangaon MIDC, Village Koregaon,  
Taluka Shirur, Pune, Maharashtra – 412220.

Versus

**Commissioner of Customs Nhava Sheva-IV**

**.... Respondent**

7<sup>th</sup> Floor, Jawaharlal Nehru Custom House, Nhava Sheva,  
Taluka Uran Dist Raigad, Maharashtra – 400707.

Appearance:

Shri Sanjay Singhal, Advocate for the Appellant

Shri Ram Kumar, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. A/85147/2023**

Date of Hearing: 07. 02.2023

Date of Decision: 07.02.2023

***Per: Anil G. Shakkarwar***

Present appeal is directed against Order-in-Appeal No. 15(CSE)/2020 (JNCH)/Appeal-I dated 11.02.2020 wherein Learned Commissioner (Appeals) has rejected the appeal as time barred.

2. Heard both the parties and perused the records.

3. On perusal of record, I find that in the proceedings a show cause notice dated 13.12.2016 was issued to the appellant mentioning their two addresses one at Hinjewadi, Pune and

another at Ranjangaon MIDC, Taluka Shirur, District Ahmednagar. On 04.08.2017 Revenue sent a letter to the appellant informing that the letter sent to Hinjewadi address was return and addressed the said letter dated 04.08.2017 to Ranjangaon MIDC address intimating date of hearing. Order-in-Original was issued on 12.02.2018 and the same was addressed to Hinjewadi address though Revenue through their letter dated 04.08.2017 had on record that letters addressed to Hinjewadi address were returned back. One Shri. Sumit Tawari obtained a copy of the said Order-in-Original by filing application under RTI Act, 2005. Sumit Tawari got copy of the such Order-in-Original through communication dated 29.07.2019. The appellant addressed a letter to Revenue on 19.09.2019 requesting for attested copy of the said Order-in-Original enabling them to file appeal. Such attested copy was given to the appellant by attesting the copy of Order-in-Original on 27.09.2019. The appellant have filed appeal on 18.11.2019 before Learned Commissioner (Appeals).

4. I find that Commissioner (Appeals) has held that the appellant had received copy of Order-in-Original on 05.08.2019 and therefore the appeal was time barred. I find that on 05.08.2019 copy of the Order-in-Original was given to Shri Sumit Tawari and not the appellant and therefore I hold that date of service of Order-in-Original on the appellant is 27.09.2019. Therefore, appeal filed before Commissioner (Appeals) is within the limitation provided by law.

5. In view of the above finding, I set aside impugned Order-in-Appeal and remand the matter to Commissioner (Appeals) for decision on merit.

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

(Order dictated in open court)

**(Anil G. Shakkarwar)**  
**Member (Technical)**

Sinha