

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
WEST ZONAL BENCH**

SERVICE TAX APPEAL NO.85334OF 2024

[Arising out of Order-in-Appeal No.SK/374/Appeals-II/MC/2023-24 dated 06.11.2023 passed by the Commissioner of CGST & Central Excise(Appeals), Mumbai]

HARSHAD KESHAV PARAB

B-1302, 13th Floor, The Baya Victoria, Pais Street,
Ganesh Parundekar Marg, Byculla (West),
Mumbai-400 011

Appellant

Vs.

**COMMISSIONER OF CGST AND CENTRAL
EXCISE-MUMBAI CENTRAL**

115, GST Bhavan, M.K.Road, Churchgate,
Mumbai-400 020

Respondent

Appearance:

Present for the Appellant: Shri Manoj Kasale, Advocate

Present for the Respondent: Sh. Dhananjay Dahiwalé Dy. Commissioner (AR)

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO.85567/2026

Date of Hearing/Decision: 22.04.2026

PER: AJAY SHARMA

1. This appeal has been preferred by the appellant against the Order-in-Appeal dated 06.11.2023 passed by the Commissioner (Appeals-II), CGST & Central Excise, Mumbai, whereby the appeal filed by the appellant came to be rejected solely on the ground that no application for condonation of delay had been filed along with the appeal.

2. I have heard the Learned Counsel appearing for the appellant as well as the Learned Authorised Representative for the Revenue and have carefully perused the records of the case.

3. The primary contention of the appellant is that the adjudication order dated 29.07.2022 was dispatched by the department to the appellant's erstwhile address at Lower Parel, Mumbai, despite the appellant having shifted its place of business in the year 2022 to B-1302, The Baya Victoria, Opp. Byculla (West) Station, Mumbai. It is submitted that due intimation of the change of address had also been furnished to the learned Commissioner (Appeals) vide communication dated 03.05.2023, which was duly acknowledged. However, notwithstanding such intimation, the learned Commissioner (Appeals) continued to issue hearing notices at the old address, resulting in the appellant being deprived of the opportunity to attend the hearings.

4. It is further submitted that while making the mandatory pre-deposit before the appellate authority, the appellant had clearly mentioned the updated Byculla address. Learned counsel contends that had the notices of hearing been issued at the correct address, the appellant would have duly participated in the proceedings and would have either satisfied the learned Commissioner regarding the absence of a condonation application or, in the alternative, filed an appropriate application for condonation of delay.

5. It is the appellant's case that the adjudication order dated 29.7.2022, though delivered at the erstwhile address of Lower Parel in August, 2022, was actually received by the appellant only on 06.09.2022 through the present occupant of the said premises. Proceeding on a bona fide belief that the period of limitation would commence from the date of actual receipt, i.e., 06.09.2022, the appellant filed the appeal on 21.10.2022

without accompanying it with an application for condonation of delay.

6. The Learned Counsel submits that the delay, if any, is neither deliberate nor attributable to negligence, but stems from a reasonable and bona fide understanding of the limitation provisions. It is further urged that the Commissioner (Appeals) has rejected the appeal at the threshold without examining the merits, despite the appellant having a strong arguable case. However, in view of the nature of the impugned order, I refrain from entering into the merits of the dispute.

7. Upon consideration of the facts and circumstances of the case, I find that the sequence of events indicates that the delay occurred due to the order being served at the old address and the appellant acting on the basis of the date of actual receipt. Such conduct, in my considered view, cannot be said to be lacking in bona fides.

8. It is a settled principle that procedural requirements, including limitation, should not be applied in a manner that defeats substantive justice, particularly when the delay is marginal and satisfactorily explained. In the present case, the delay is only of 23 days, and the appellant has expressed willingness to file an appropriate application for condonation of delay if an opportunity is granted.

9. In these circumstances and in the interest of justice, I deem it appropriate to set aside the impugned order and remand

the matter to the Commissioner (Appeals) for fresh consideration.

10. The appellant is directed to file a proper application for condonation of delay before the Commissioner (Appeals), who shall thereafter consider and decide the said application in accordance with law. In case the application is allowed, the appeal shall be taken up for disposal on merits after affording reasonable opportunity of hearing to the appellant and permitting submission of relevant evidence.

11. The impugned order is therefore set aside and the appeal is allowed by way of remand.

(Dictated and Pronounced in court)

(AJAY SHARMA)
MEMBER (JUDICIAL)