

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 3

EXCISE APPEAL NO. 50104 OF 2026

[Arising out of Order-in-Appeal No.BHO-EXCUS-001-APP-72-2025-26 dated 20.08.2025 Passed by the Commissioner(Appeals), CGST & Central Excise:Bhopal(M.P)]

BHARAT HEAVY ELECTRICALS LTD

Block VI, Annexe WWGF
P.O Piplani Bhopal 462 023

....APPELLANT

VERSUS

COMMISSIONER CGST & CENTRAL EXCISE

35-g, GST Bhawan, Arera Hills Jail
Road, Bhopal 462 011

...RESPONDENT

APPEARANCE:

Shri Z.U. Alvi, Advocate for the appellant

Shri Anuj Kumar Neeraj, Authorised Representative for the respondent

CORAM:

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO.50835/2026

**Date of Hearing: 29.04.2026
Date of Decision: 04.05.2026**

P. ANJANI KUMAR

1. M/s BHEL, the appellant, assails the order passed by the Commissioner(Appeals), GST and Central Excise, Bhopal vide order dated 22.08.2025.

2. On finalization of the provisional assessments for the period 2011-12 to 2017-18[upto 30.06.2017], the appellants filed refund claims under section 11 B of the Central Excise Act, 1944. The assistant commissioner, Central Tax and Central Excise, Division-1, Bhopal, vide order dated 30.08.2024, rejected the refund claims filed by the appellants. The appellants preferred an appeal before the Commissioner(Appeals) against

the original-in-original cited above. The Commissioner(Appeals), vide impugned order dismissed the appeal holding that the appeal was filed beyond the condonable period. Hence, this appeal.

3. Shri Z.U. Alvi, learned counsel for the appellant, submits that in the Proforma of before Commissioner(Appeals) the appellants have inadvertently mentioned the date of the communication of the impugned order as 06.09.2024, though the said order was received by the concerned person in the organization on 09.09.2024, due to a wrong designation mentioned in the address in the impugned original order. The original order was addressed to Bharat Heavy Electricals Limited(BHEL) (ADGM-Taxation), Piplani, Bhopal(M.P.)-462 044. He submits that there is no designation as ADGM-Taxation in the organization. It can be seen from the refund claims filed by the appellants that the same was signed by Assistant Manager (Taxation). As the designation was wrongly mentioned and the authority to whom the impugned original order was delivered has resigned that immediate fact, the impugned original order took some time to reach the concerned person in the concerned department of the appellant. The order and ultimately reached the concerned person on 09.09.2024. The same needs to be treated as the date of receipt of the impugned original order. He submits that these points were explained in the memorandum filed before the Commissioner(Appeals), and an affidavit to that extent was also submitted. However, the learned Commissioner(Appeals), instead of considering the application and the affidavit held that the appeal was filed beyond 90 days, i.e., beyond the period which can be condoned by the Commissioner(Appeals). Learned Counsel submits further that the impugned original order was passed in gross violation of principles of natural justice, as no show cause notice was issued and no personal

hearing was granted. Learned counsel relies on the following cases and submits that the delay may be condoned.

1. Malwa Concrete Udyog V/s Commissioner C.E¹

2. Manoharan V/s Sivaranjan and Ors²

3. Collector's land Acquisition V/s Mst. Katiji³

4. Shri Anuj Kumar Neeraj, learned Authorised Representative appearing for the Revenue, opposes the appeal and submits that the Revenue has a strong case on merits and limitation. The appellants themselves have indicated the date of receipt as 06.09.2024 and therefore, there was no mistake on the part of the learned Commissioner(Appeals) in rejecting the appeal in terms of the provisions of section 35 F of Central Excise Act, 1944 in view of the decision of the Supreme Court of India in the case of **Singh Enterprises V/s Commissioner of C.EX., Jamshedpur⁴**.

5. Heard both sides and perused the records of the case. I find that the original order was addressed to BHEL(ADGM-Taxation). I find that no such designation was mentioned by the appellant in any of the correspondence while filing the refund claim. It is Understandable that the appellant is a huge manufacturing company having various units and departments, which are divided into various blocks like engineering block, production planning block, material management block, commercial and finance division block and administrative block etc. Therefore, understandably, the impugned original order addressed to ADGM-Taxation took some time in internal travel going through divisions and sections before it finally it reached the Additional General Manager(Finance), which was wrongly mentioned as ADGM-Taxation in the impugned original order. I find that the appellants

¹ Order dated:09.10.2013, CEA No.:12/2013

² MANU/SC/1192/2013

³ 1987(28) ELT-185-SC

⁴ 2008(221) ELT 163(SC)

have explained all these reasons and contended that the actual date of delivery of the impugned original order should be taken as 09.09.2024 and, if so, the delay that occurred in filing the appeal before the Commissioner(Appeals) falls within condonable period. I find that the learned Commissioner(Appeals) did not go through the submissions of the appellants and the contents of the affidavit, but proceeded to hold that the date of receipt of the impugned order was 06.09.2024 on the basis of the date mentioned in the proforma of appeal which the appellants claim to be a clerical error. Considering the facts and circumstances of the case, I am of the considered view that the learned Commissioner(Appeals) ought to have looked into the submissions of the appellants and the circumstances in which the order reached the appellants on 09.09.2024. It appears that learned Commissioner(Appeals) has not appreciated the facts of the case in a proper perspective and has not given any findings on the submissions. Therefore, I find that in the interest of justice, that the matter should go back to the Commissioner(Appeals) for *de novo* consideration, taking into account the submissions of the appellants, the affidavit, and the facts and circumstances of the case.

6. In the result, the appeal is allowed by way of remand to the Commissioner(Appeals) with a direction to decide the matter expeditiously within 12 weeks of this order.

[Order Pronounced on 04.05.2026]

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)