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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 06.08.2026
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\# **CNR No. DLHC010357942026**

\+ CUSAA 89/2026, CM APPL. 51494/2026 and CM APPL. 51495/2026

M/S RADHEY SHYAM RISHIPAL FACTORY .....Appellant

Through: Mr. Abhas Mishra, Mr. Hukam Chand, & Ms. Shruti Jindal Advs.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS IMPORT .....Respondent

Through: Ms. Anushree Narain SCC, Mr. Apurv Yadav and Mr. Naman Choula, Advs.

\# **CNR No. DLHC010359022026**

\+ CUSAA 90/2026 and CM APPL. 51655/2026

DEEPAK KUMAR .....Appellant

Through: Mr. Abhas Mishra, Mr. Hukam Chand, & Ms. Shruti Jindal, Advs.

versus

PRINICIPAL COMMISSIONER OF CUSTOMS IMPORT .....Respondent

Through: Ms. Anushree Narain SCC, Mr. Apurv Yadav and Mr. Naman Choula, Advs.

\# **CNR No. DLHC010359132026**

\+ CUSAA 92/2026, CM APPL. 51686/2026 and CM APPL. 51687/2026

RADHEY SHYAM .....Appellant

Through: Mr. Abhas Mishra, Mr. Hukam Chand, & Ms. Shruti Jindal, Advs.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT)
.....Respondent

Through: Ms. Anushree Narain SCC, Mr. Apurv Yadav and Mr. Naman Choula, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

JUDGMENT

SHAIL JAIN, J.

INTRODUCTION:

1. The present batch of three Customs Appeals filed under Section 130 of the Customs Act, 1962 challenges the common Miscellaneous Order Nos. 50042–50044/2026 dated 07.01.2026 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi ("CESTAT"), whereby the applications seeking condonation of delay in filing the appeals against the Order-in-Original dated 07.12.2021 were rejected and, consequently, the appeals were dismissed.

2. The present batch arises out of a common substratum of facts and proceedings. The three appeals have been preferred by M/s Radhey Shyam Rishipal Factory, its partner Deepak Kumar and Radhey Shyam, respectively, and arise from the same adjudication proceedings, the same Order-in-Original dated 07.12.2021 and the common order passed by the learned CESTAT. Since the questions of fact and law arising in the present appeals are substantially common, the matters have been heard together and are being disposed of by this common judgment.

3. To maintain brevity and avoid repetition, **CUSAA 89/2026, *M/s Radhey Shyam Rishipal Factory v. Principal Commissioner of Customs***

(Import), is being treated as the lead matter for deciding the present batch of appeals. The facts and submissions in the lead matter are being referred to hereinafter, which shall, to the extent applicable, govern the connected matters as well.

BRIEF FACTS OF THE CASE:

4. Brief facts emerging from the record, necessary for adjudication of the present appeals, are that the proceedings arise out of a Show Cause Notice dated 22.12.2020 issued to the appellants in respect of certain imports made by the appellant-firm. The adjudication proceedings were thereafter conducted by the Principal Commissioner of Customs (Import), ICD, Tughlakabad, New Delhi. The appellants were represented before the adjudicating authority through their authorised counsel.

5. During the course of the adjudication proceedings, various communications were issued by the adjudicating authority fixing dates of personal hearing and calling upon the appellants to file their defence. The record indicates that a communication dated 01.04.2021 was issued fixing 15.04.2021 as the date of personal hearing. Thereafter, further dates of hearing were fixed, including 19.05.2021, 02.09.2021 and 28.09.2021. The appellants were represented through counsel at the hearings held on 02.09.2021 and 28.09.2021, and requests for time to file written submissions were made on their behalf.

6. The adjudicating proceedings ultimately culminated in the passing of Order-in-Original No. *19/2021/SG/Pr. Commr./ICD-Import/TKD* dated 07.12.2021. By the said order, the Principal Commissioner of Customs, *inter alia*, re-determined the declared value in the Bills of Entry, directed recovery of differential customs duty and imposed penalties upon the appellants.

7. According to the Respondent/Department, a copy of the Order-in-Original dated 07.12.2021 was dispatched to the noticees at the address available on record. The Department further states that a copy of the said order was forwarded by electronic mail on 14.12.2021 to the e-mail address of the counsel/authorised representative who had represented the appellants during the adjudication proceedings. The corrigendum to the Order-in-Original was also stated to have been forwarded to the said e-mail address on 22.12.2021. The Department further relied upon the display of the Order-in-Original on the notice board of the concerned office in terms of Section 153(e) of the Customs Act, 1962.

8. The appellants, however, claim that the Order-in-Original was not served upon them at their registered address and that they were not personally aware of the passing of the said order. According to the appellants, they came to know of the passing of the Order-in-Original only when proceedings for freezing of their bank accounts were initiated by the Department on 27.02.2024. The appellants thereafter addressed communications to the concerned authorities seeking de-freezing of their bank accounts and supply of a copy of the Order-in-Original.

9. The appellants state that, after pursuing the matter with the Department, a copy of the Order-in-Original dated 07.12.2021 was ultimately furnished to them by the office of the Principal Commissioner of Customs by electronic mail on 02.07.2024. The appellants thereafter preferred appeals before the learned CESTAT on 01.08.2024 challenging the Order-in-Original dated 07.12.2021.

10. Since the appeals were filed beyond the period prescribed under Section 129A of the Customs Act, 1962, the Registry of the learned CESTAT,

by communications dated 30.10.2024, required the appellants to file applications seeking condonation of delay. The appellants thereafter filed applications for condonation of delay on 20.12.2024, seeking condonation of a delay of approximately 968 days.

11. In the applications seeking condonation of delay, the appellants stated that the Order-in-Original had never been served upon them and that they had received a copy thereof only on 02.07.2024. The Respondent/Department opposed the applications and placed on record the communications/e-mails whereby the Order-in-Original had been forwarded to the counsel representing the appellants during the adjudication proceedings.

12. In view of the aforesaid response of the Department, the learned CESTAT, *vide* order dated 29.09.2025, called upon the learned counsel who had represented the appellants before the adjudicating authority and had thereafter filed the appeals and applications for condonation of delay, to explain why the e-mails dated 14.12.2021 and 22.12.2021 had not been disclosed in the applications for condonation of delay. The learned CESTAT also required the learned counsel to state whether the appellants had been informed of the receipt of the Order-in-Original through the said e-mails.

13. No communication or affidavit from the concerned counsel was placed on record in response to the aforesaid direction. An affidavit dated 13.12.2025 was, however, filed by Sh. Deepak Kumar, partner of M/s Radhey Shyam Rishipal Factory. In the said affidavit, the appellants reiterated that the Order-in-Original had not been personally received by them and that they had no knowledge of the e-mail communication addressed to their counsel. The affidavit also referred to the subsequent change of counsel and the circumstances in which the appellants sought to explain the delay in filing the

appeals.

14. The learned CESTAT, after considering the material placed before it, including the applications for condonation of delay, the response filed by the Department, the order dated 29.09.2025 and the affidavit dated 13.12.2025, passed the impugned Common Miscellaneous Order Nos. 50042–50044/2026 dated 07.01.2026. The learned CESTAT rejected the applications for condonation of delay and, consequently, dismissed the three appeals.

15. The learned CESTAT, while considering the issue of delay, took note of the appellants' participation in the adjudication proceedings through counsel, the repeated opportunities granted to the appellants to file their defence, the dispatch of the Order-in-Original to the address available on record, its communication by electronic mail to the counsel representing the appellants, and its display on the notice board. The learned CESTAT further took note of the fact that the appellants had not made any enquiry regarding the outcome of the adjudication proceedings for nearly three years and that the factum of the e-mail communication to the counsel had not been disclosed in the original applications for condonation of delay.

16. Aggrieved by the aforesaid common order dated 07.01.2026, the appellants have preferred present appeals before this Court.

SUBMISSIONS OF THE PARTIES:

17. Learned counsel representing the appellants submitted that the learned CESTAT erred in declining to condone the delay in filing the appeals against the Order-in-Original dated 07.12.2021. It was submitted that the period prescribed under Section 129A of the Customs Act, 1962 is to be reckoned from the date on which the order is communicated to the person aggrieved.

According to learned counsel, the appellants had neither received the Order-in-Original at their registered address nor at their e-mail address and they became aware of the same, only upon initiation of recovery proceedings and freezing of their bank accounts on 27.02.2024. It was submitted that, despite repeated requests made thereafter, a copy of the Order-in-Original was furnished to the appellants only on 02.07.2024, whereafter the appeals were filed before the learned CESTAT on 01.08.2024.

18. Learned counsel submitted that the Department's reliance upon the e-mail dated 14.12.2021 was misplaced, as the said e-mail had been addressed to the appellants' erstwhile counsel and there was nothing on record to establish that the order was ever communicated by the said counsel to the appellants. It was submitted that the appellants had specifically stated on affidavit that they had no knowledge of either the e-mail or the Order-in-Original until the recovery proceedings were initiated. Learned counsel further pointed out that the learned CESTAT itself had, *vide* order dated 29.09.2025, called upon the concerned counsel to explain whether the order received by him had been communicated to the appellants, however, no such explanation was forthcoming. It was submitted that the appellants ought not to be prejudiced on account of the failure of their erstwhile counsel to communicate the order to them.

19. Learned counsel further submitted that the conduct of the appellants, upon acquiring knowledge of the Order-in-Original, demonstrated due diligence. The appellants had immediately addressed communications to the Department seeking a copy of the order and pursued the matter until the same was furnished on 02.07.2024. It was contended that the appellants had also approached this Court in relation to the freezing of their bank accounts and

that, *vide* order dated 07.02.2025 passed in W.P.(C) No. 12704/2024, this Court had left the question of service of the Order-in-Original open for consideration by the appellate forum. Learned counsel submitted that the appellants had thus consistently maintained that the order had not been communicated to them and that the delay deserved to be condoned so that their challenge to the substantive demand and penalties could be considered on merits. Reliance was accordingly placed upon the explanation furnished in the applications for condonation and the subsequent affidavit filed before the Tribunal.

20. *Per contra*, Ms. Anushree Narain, learned Senior Standing Counsel representing the Respondent/Department submitted that the impugned order does not warrant interference. It was submitted that the appellants had participated in the adjudication proceedings through the same counsel to whom the Order-in-Original was subsequently forwarded by e-mail on 14.12.2021. The Department had also dispatched the order to the address available on its record and displayed the same on its notice board. The e-mail communication could not, therefore, be disregarded merely because the appellants subsequently claimed that their counsel had not informed them of the order.

21. The learned SSC further submitted that the conduct of the appellants, viewed in its entirety, furnished no sufficient cause for condoning a delay of 968 days. The appellants were aware of the adjudication proceedings and, despite repeated opportunities, had neither filed their defence nor made any enquiry regarding the outcome of the proceedings for nearly three years. It was submitted that the subsequent receipt of a copy of the order on 02.07.2024 could not retrospectively constitute the date of its first communication when

the Department had already taken steps to dispatch and electronically communicate the order in December 2021.

22. It was further submitted that the same counsel who had represented the appellants before the adjudicating authority was subsequently engaged for filing the appeals and the applications seeking condonation of delay before the learned CESTAT. The Tribunal, *vide* order dated 29.09.2025, specifically called upon the concerned counsel to explain why the said e-mail communication had not been disclosed in the applications for condonation and whether the Order-in-Original had been communicated to the appellants. Learned SSC submitted that, despite the specific direction, the said counsel did not furnish any explanation and thereafter ceased to appear in the proceedings. The subsequent affidavit filed by the appellant, according to learned SSC, could not satisfactorily explain the omission on the part of the counsel or the prolonged inaction of the appellants. It was thus contended that the learned CESTAT had, upon consideration of the entire record, rightly concluded that the delay remained unexplained and that the appellants had failed to demonstrate sufficient cause warranting exercise of discretion in their favour.

ANALYSIS:

23. This court has heard learned counsel for the appellants and learned SSC representing the Respondent/Department and has perused the material on record.

24. At the outset, it is necessary to bear in mind the limited scope of jurisdiction of this Court under Section 130 of the Customs Act, 1962. Section 130(1) provides for an appeal to the High Court from an order passed by the Appellate Tribunal only where the High Court is satisfied that the case

involves a '***substantial question of law***'. The jurisdiction so conferred is distinct from ordinary appellate jurisdiction and does not ordinarily permit re-appreciation of findings of fact recorded by the Tribunal merely because another view may also be possible.

25. The expression "substantial question of law" has been authoritatively explained by the Supreme Court in ***Santosh Hazari v. Purushottam Tiwari***, (2001) 3 SCC 179. The Supreme Court held that a substantial question of law must be a question of substance, which is debatable and has a material bearing on the rights of the parties and the outcome of the case. A question which is already settled by binding precedent or which merely invites re-appreciation of the evidence does not, by itself, constitute a substantial question of law. At the same time, a finding of fact may give rise to a substantial question of law where such finding is shown to be perverse, based on no evidence, arrived at by ignoring material evidence, or otherwise vitiated by an erroneous application of law. The aforesaid principles have also been reiterated in the context of Section 130 of the Customs Act by the Division Bench of the Orissa High Court in ***Commissioner of Customs (Preventive), Odisha v. Satish Kumar Subudhi***, decided on 17.10.2025.

26. The present appeals arise from the refusal by the learned CESTAT to condone a delay of approximately **968 days** in filing the appeals against the Order-in-Original dated 07.12.2021. The question before this Court is, therefore, not whether, on a re-appreciation of the factual circumstances, another view could possibly have been taken by the learned CESTAT. The question is whether the discretion exercised by the learned CESTAT in refusing to condone the delay suffers from any error of law, perversity or disregard of material evidence so as to give rise to a substantial question of

law warranting interference under Section 130 of the Act.

27. Section 129A(3) of the Customs Act prescribes a period of three months for filing an appeal before the Tribunal from the date on which the order sought to be appealed against is communicated. Sub-section (5) thereof enables the Tribunal to admit an appeal after expiry of the prescribed period where it is satisfied that there was '***sufficient cause***' for not presenting the appeal within the prescribed period. The discretion to condone delay is, therefore, required to be exercised judicially, upon consideration of the explanation furnished for the entire period of delay.

28. The principles governing the exercise of such discretion are well settled. The expression '*sufficient cause*' is required to receive a liberal and justice-oriented construction, however, such approach does not dispense with the requirement of bona fides, diligence and a satisfactory explanation for the delay. In ***Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy***, (2013) 12 SCC 649, the Hon'ble Supreme Court, while summarising the principles governing condonation of delay, recognised that a liberal approach is warranted where the explanation discloses bona fide circumstances, but cautioned against condoning delay where there is gross negligence, lack of due diligence or want of bona fides.

29. The same principle finds expression in ***Basawaraj v. Special Land Acquisition Officer***, (2013) 14 SCC 81, wherein the Hon'ble Supreme Court held as follows:

> *"**11.** The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be*

decided on the facts of a particular case and no straitjacket formula is possible.

***12**. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute."*

30. The aforesaid principles have to be applied to the facts of the present case. The delay in question is not marginal but extends to approximately 968 days. The appellants seek to explain the delay principally on the ground that the Order-in-Original dated 07.12.2021 was not communicated to them and that they obtained a copy thereof only on 02.07.2024. The Respondent/Department, on the other hand, relies upon the dispatch of the order to the address available on record, its electronic communication to the counsel representing the appellants during the adjudication proceedings and its display on the notice board. The question, therefore, is whether the material placed before the learned CESTAT disclosed sufficient cause for the appellants' failure to approach the Tribunal within the prescribed period.

31. In examining this question, the conduct of the appellants during the adjudication proceedings assumes significance. The record shows that the appellants were represented through counsel, who appeared before the

adjudicating authority and sought adjournments and time to file written submissions on their behalf. Despite repeated opportunities, no reply to the Show Cause Notice was filed and the adjudication ultimately culminated in the Order-in-Original dated 07.12.2021.

32. The learned CESTAT, after examining the record of the adjudication proceedings, observed in paragraph 12 of the impugned order:

> *"The aforesaid facts leave no manner of doubt that the appellant has been absolutely negligent in the proceedings before the Principal Commissioner. Not only a reply to the show cause notice was not filed despite repeated opportunities having been granted, but even the learned counsel who had been regularly writing to the Principal Commissioner to grant time to file the written defence did not appear."*

33. The aforesaid finding is borne out from the record of the proceedings before the adjudicating authority. The appellants were admittedly aware of the adjudication proceedings and had engaged counsel to represent them therein. The question, therefore, is not one of complete absence of knowledge of the proceedings, but whether the subsequent period of inaction has been satisfactorily explained.

34. The learned CESTAT thereafter considered the conduct of the appellants after conclusion of the adjudication proceedings and recorded in paragraph 13:

> *"What is more surprising is that no attempt was made by the appellant during this long period of three years till the freezing of the account by the department to find out from the office of the Principal Commissioner or from the office of the learned counsel as to whether any order had been passed when the hearing had concluded*

in November, 2021."

35. This finding assumes significance while examining the plea of sufficient cause. Even assuming, for the sake of consideration, that the appellants themselves did not receive the Order-in-Original in December 2021, the fact remains that the adjudication proceedings had concluded and the appellants had been represented through counsel throughout the material period. No material has been brought on record demonstrating any enquiry made by the appellants between December 2021 and February 2024 as to the status or outcome of the adjudication proceedings. The explanation offered is, therefore, not merely required to account for the time taken in obtaining the copy of the order after February 2024, it must also satisfactorily explain the prolonged period of complete inaction preceding the appellants' alleged first knowledge of the order.

36. The question of communication of the Order-in-Original to the appellants' counsel also assumes relevance in this regard. The Department had placed before the learned CESTAT the e-mail dated 14.12.2021 whereby the Order-in-Original was forwarded to the counsel who had represented the appellants before the adjudicating authority. The Department had also relied upon the dispatch of the order by post and its display on the notice board. The learned CESTAT, after considering these circumstances, recorded in paragraph 14:

> *"The fact that the department sent the impugned order dated 07.12.2021 by e-mail on 14.12.2021 to the learned counsel has not been denied. In the facts and circumstances of the case, when the repeated communications sent by the department to the appellant by post returned back either with the remark "returned due to lockdown" or "left" no fault can be attributed to*

> *the department in sending the impugned order to the learned counsel by e-mail, more particularly when the learned counsel had been responding to the e-mails sent by the Principal Commissioner during the course of the adjudicating proceedings. A copy of the order was also pasted on the Notice Board of the office and had the appellant been diligent, he would have clearly found that an order has been passed. No reason has been given by the appellant as to why he did not make any attempt to find out from the office of the Principal Commissioner whether any order had been passed during this long period of about three years."*

37. The aforesaid reasoning demonstrates that the learned CESTAT did not reject the applications merely on the basis of the fact that the Order-in-Original had been electronically transmitted to the counsel. The Tribunal considered the surrounding circumstances, including the appellants' participation in the adjudication proceedings, the Department's attempts to communicate with them, the electronic communication with the counsel, the display of the order on the notice board and, most importantly, the absence of any enquiry by the appellants for nearly three years. The conclusion of the Tribunal was thus founded upon a cumulative assessment of the material before it.

38. Learned counsel for the appellants contended that the appellants ought not to suffer on account of the failure of their counsel to communicate the order to them. In support of the said contention, reliance was placed upon the judgment of the Hon'ble Supreme Court in ***Rafiq v. Munshilal***, (1981) 2 SCC 788, wherein the Court recognised that an innocent litigant who has acted with due diligence ought not to suffer merely on account of a default on the part of his counsel.

39. There can be no quarrel with the aforesaid principle. However, its applicability necessarily depends upon the facts and circumstances of each case. In ***Rafiq***, the litigant had himself acted diligently and the prejudice arose from the failure of his counsel. The facts of the present case stand on a materially different footing. Here, the learned CESTAT has recorded a finding of prolonged inactivity on the part of the appellants themselves. The appellants were aware of the adjudication proceedings, had participated therein through counsel, and thereafter admittedly made no enquiry for nearly three years as to whether the proceedings had culminated in an order. The plea of omission on the part of the counsel, therefore, does not by itself explain the entire period of delay.

40. The subsequent conduct in filing the appeals before the learned CESTAT also merits consideration. The appeals were filed on 01.08.2024, but the applications seeking condonation of delay were not filed along with the appeals and came to be filed only on 20.12.2024 after the Registry pointed out the delay. The Tribunal took note of this circumstance in paragraph 10 of its order and observed:

> *"It is not in dispute that the order dated 07.12.2021 passed by the Principal Commissioner was assailed before this Tribunal by filing the appeals on 01.08.2024. At the time of filing the appeals, the appellants did not even care to file an application for condonation of delay when there was a delay of about 986 days in filing the appeals and it was only when the Registry of the Tribunal pointed out this fact to the appellants that the appellants filed an application for condonation of delay on 20.12.2024. It needs to be noted that the appeals and the applications for condonation of delay were filed by the same counsel who had appeared for the appellants before the Principal Commissioner and had sent letters to the Principal*

Commissioner seeking adjournments and time to file a reply…"

41. The aforesaid circumstance, by itself, may not be decisive, however, it assumes significance when considered along with the other circumstances noticed by the Tribunal. The counsel to whom the Order-in-Original had been communicated by e-mail on 14.12.2021 was the very counsel who thereafter instituted the appeals before the learned CESTAT and filed the applications seeking condonation of delay. Thus, the very counsel who was in receipt of the e-mail communicating the Order-in-Original was also responsible for placing before the learned CESTAT the explanation for the delay.

42. The Tribunal thereafter afforded a specific opportunity to the appellants to explain this circumstance. The order dated 29.09.2025 specifically called upon the concerned counsel to explain why receipt of the e-mail had not been disclosed in the applications seeking condonation of delay and whether the Order-in-Original had thereafter been communicated to the appellants. Despite the specific query, the concerned counsel did not furnish any explanation before the Tribunal and subsequently ceased to appear in the proceedings. The Tribunal recorded that no response was filed by the concerned counsel. In paragraph 10 of the impugned order, the Tribunal observed:

"…When the order dated 07.12.2021 was sent to the learned counsel by the Principal Commissioner by e-mails on 15.12.2021 and 22.12.2021, the least that should have been stated in the applications is about the receipt of this order by e-mail, but this fact was withheld and all that has been stated is that the appellants were not served with a copy of the order. The learned counsel, in the applications, also does not even care to state whether the learned counsel apprised the appellants about the order or the

appellants were not apprised. The fact is that till date, even though an opportunity was granted by the Tribunal on 29.09.2025 to explain the correct position, learned counsel has not filed any response."

43. The Tribunal thereafter considered the affidavit dated 13.12.2025 filed by Sh. Deepak Kumar, partner of M/s Radhey Shyam Rishipal Factory. Upon consideration of the said affidavit, the learned CESTAT observed in paragraph 18 of the impugned order as under:

"The thrust of the affidavit that has been subsequently filed by the appellant merely mentions that the department did not serve order upon him at his registered address or by e-mail to him. There is nothing on the record to indicate that the appellant had sent any letter to the department to inform that the order should be sent at this registered address of the appellant or at the e-mail address now provided by him. As noticed above, the department had been sending letter at the address on which the show cause notice was issued and it is the same address on which the impugned order was sent. The order passed by the Principal Commissioner also notices that at least one letter sent by the department at this address was received by the appellant and on basis of this letter, the learned counsel was engaged to appear before the adjudicating authority."

44. The above findings are findings of fact based upon the record before the learned CESTAT. The appellants' contention that their registered address was 308/14, Shazadabagh, whereas the Department had sent communications to 308/9, Shazadabagh, was considered by the Tribunal. The Tribunal noted that the latter was the address used during the adjudication proceedings, that communications had been sent there, and that the appellants had not shown that they had informed the Department of a change of address for purposes of

communication. The Tribunal further noticed that the two addresses were in close proximity.

45. It is also relevant that the appellants' plea is not that they were prevented by any circumstance from making an enquiry regarding the outcome of the adjudication proceedings. Their case is essentially that they were not informed of the Order-in-Original by their counsel and that they themselves had no knowledge thereof. Even if the said assertion is accepted at its highest, it does not explain why, after the hearing had concluded in November 2021, no enquiry was made for nearly three years regarding the outcome of proceedings of which the appellants admittedly had knowledge. The learned CESTAT was, therefore, justified in examining the appellants' conduct independently of the question whether the e-mail communication to counsel constituted formal communication of the order for the purposes of Section 129A of the Act.

46. The subsequent receipt of the Order-in-Original on 02.07.2024 and the filing of the appeals on 01.08.2024, therefore, cannot by themselves cure the preceding prolonged inaction. The knowledge acquired by a duly appointed counsel during the course of representing his client is certainly a relevant circumstance while examining the appellants' diligence and the existence of sufficient cause for condonation of delay. The Supreme Court in ***Basawaraj*** *(supra)* has held that where a party has been negligent, has not acted diligently or has remained inactive, there can be no justified ground for condoning an inordinate delay. The Court has further emphasised that limitation cannot be extended merely on equitable considerations.

47. This Court is conscious that the object of condonation provisions is to advance substantial justice and that a litigant should not ordinarily be denied

an adjudication on merits on account of a procedural lapse. However, the discretion to condone delay is conditioned upon the existence of sufficient cause. In the present case, the learned CESTAT considered the explanation furnished and found it inadequate when tested against the appellants' conduct over the entire period. Such exercise of discretion cannot be characterised as arbitrary or perverse merely because the appellants urge that a more liberal view ought to have been taken.

48. Ultimately, the learned CESTAT concluded in paragraph 19 of the impugned order:

> *"There is, therefore, no satisfactory explanation given by the appellants for condoning the long delay of 968 days. The three applications are rejected. The three appeals are, accordingly, dismissed as the delay condonation applications have been rejected."*

49. Tested against the parameters of Section 130 of the Customs Act, this Court finds no perversity in the aforesaid findings. The learned CESTAT has applied the statutory test of sufficient cause, considered the explanation furnished by the appellants and examined the relevant material bearing upon the delay. No erroneous proposition of law has been demonstrated, nor has any material evidence been shown to have been ignored. The appellants' challenge essentially seeks a re-appreciation of factual circumstances and substitution of the discretion exercised by the Tribunal with a different view.

50. Such an exercise is impermissible in the present jurisdiction unless the findings of the Tribunal are shown to be perverse or otherwise give rise to a substantial question of law. No such circumstance has been established in the present case. The question whether, on these facts, sufficient cause ought to have been accepted by the Tribunal is essentially a matter falling within the

discretion vested in the Tribunal, and the exercise of that discretion, having been based upon relevant material and cogent reasons, does not warrant interference.

CONCLUSION:

51. In view of the foregoing discussion, this Court is of the considered view that the impugned Common Miscellaneous Order Nos. 50042–50044/2026 dated 07.01.2026 does not give rise to any substantial question of law warranting interference under Section 130 of the Customs Act, 1962. The findings returned by the learned CESTAT are based on the material available on record and do not suffer from perversity, disregard of material evidence or any error of law.

52. The appellants have failed to demonstrate sufficient cause for the delay of approximately 968 days in filing the appeals before the learned CESTAT. The subsequent receipt of the Order-in-Original on 02.07.2024 and the steps taken thereafter do not satisfactorily explain the prolonged period of inaction preceding such receipt.

53. The present appeals are, accordingly, dismissed. Pending applications, if any, also stand disposed of.

SHAIL JAIN, J.

ANIL KSHETARPAL, J.

AUGUST 18, 2026
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