

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Tax Case No. 58 of 2016**

M/s Rayalaseema Concrete Sleepers Pvt. Ltd. (Now Patil Rail Infrastrucutre Pvt. Ltd.) Through Its Authorized Signattory- Mr. V.P. Burman, Age 54 Years, Address- Opposite Railway Station Kargi Road, Kota, Bilaspur, (Chhattisgarh).

---- Appellant**Versus**

The Commissioner, Central Excise & Custom Raipur (Chhattisgarh).

-----Respondent

For Appellant:	Shri Ramakant Mishra, Advocate.
For Respondent:	Shri Vinay Pandey, Advocate.

Hon'ble The Chief Justice**Hon'ble Shri Justice Sanjay Agrawal****Order on Board****Per Deepak Gupta, Chief Justice****24/10/2016**

1. This Appeal is totally misconceived. Section 35 of the Central Excise Act reads as follows:-

“35. Appeals to [Commissioner (Appeals)].-(1)Any person aggrieved by any decision or order passed under this Act by a Central Excise Officer lower in rank than a [Commissioner of Central Excise] may appeal to the [Commissioner of Central Excise (Appeals)] [hereinafter in this Chapter referred to as the [Commissioner (Appeals)]] [within sixty days] from the date of the communication to him of such decision or order:

[Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.]”

2. The main Section lays down that the limitation for filing an Appeal is 60 days. The proviso clearly provides that the Appellate authority can condone

the delay up to 30 days at the most. Therefore, if the Appeal is filed beyond 90 days, the Appellate authority has no jurisdiction to condone the delay.

3. Admittedly, in the present case, the order was passed on 10.2.2014, the Appeal was filed on 28.7.2014. The delay is much more than 30 days and even as per the Appellant, the delay is about 90 days and therefore, both the Tribunal and the Appellate authority were absolutely justified in holding that the Appellate authority had no right to condone the delay.

4. In this view of the matter, we find no merit in the Appeal, which is accordingly dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE