NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case No. 135 of 2016

M/s. Kailash Enterprises, Near Hanuman Mandir, Nandini Road, Power House, Bhilai, Chhattisgarh.

---- Appellant

Versus

Union of India, Through the Commissioner of Central Excise & Service Tax, Central Excise Building, Dhamtari Road, Tikrapara, Raipur, Chhattisgarh 492001

---- Respondents

For Appellant : Shri Adhiraj Surana, Advocate.
For Respondent : Shri Vinay Pandey, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

Judgment on Board

Per Deepak Gupta, Chief Justice

08/02/2017

1. The Appellant, by this appeal has challenged the order dated 05.03.2015 passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi (hereinafter called 'the CESTAT') which admittedly, according to the Petitioner, was received by it on 26.03.2015.

2. The limitation for filing an appeal against the order of the CESTAT is as long as six months. Therefore, the appeal should have been filed latest by 23.09.2015. It has actually been filed on 22.09.2016. Therefore, the delay is of about one year. The explanation given in the application for condonation of delay (IA No. 1 of 2016) is that after the order dated 05.03.2015 was passed, the Appellant tried to communicate with the Respondent authorities and also tried to pursue for arrangement of funds for payment of the said penalty and during this period, the Appellant was suffering from Jaundice for 3-4 months. Alongwith this, the Appellant has attached certain medical certificates.

3. A perusal of these medical certificates shows that they have not been issued for Jaundice at all. The first certificate was issued on 10.01.2016 and according to this certificate, Shri Ramesh Kesharwani was suffering from "Lumbar Spondylosis" and the period of absence from duty for two months from 10.01.2016 was found necessary. The second certificate issued on 06.03.2016 is also for the same disease. The third certificate was issued on 23.04.2016 in which it is certified that the Appellant was fit to resume his work.

4. At the outset, we may state that we have doubts with regard to the genuineness of the certificates because even the word "Lumbar Spondylosis" has not been spelt correctly. We expect a Doctor to at least spell a simple word like "Lumbar Spondylosis" correctly. Secondly, the averments made on affidavit is that the Appellant was suffering from Jaundice and the certificate produced is of "Lumbar Spondylosis". Assuming that this is a mistake on the part of the Typist, then also, no application for correction of the same has been filed for the last 4-5 months. There is no explanation for the period 20.09.2015 till 06.01.2016 or for the period 26.04.2016 to 23.09.2016.

5. Therefore, we find no merit in this application for condonation of delay in filing the appeal and the same is accordingly dismissed. We therefore do not go into merits of the appeal and it is dismissed being barred by limitation.

Sd/-	Sd/-
(Deepak Gupta) **CHIEF JUSTICE**	(Sanjay Agrawal) **JUDGE**

Amit