IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO. 189 OF 2015

Santowin Corporation Ltd.
(formerly known as Santowin
Polyster Ltd) .... Appellant
vs
The Commissioner, Central Excise & Service Tax,
Vapi. .... Respondent

ALONG WITH
CENTRAL EXCISE APPEAL NO. 20 OF 2016

Ram Naresh Deora ... Appellant
vs
The Commissioner, Central Excise & Service Tax,
Vapi. .... Respondent

Mr. Jas Sanghavii/by PDS Legal for the Appellant in both Appeals.

Mr. M. Dwivedi, senior standing counsel with Mr. R.R. Thakkar for Respondent in both Appeals.

CORAM: ANOOP V. MOHTA AND
SMT. BHARATI H. DANGRE, JJ.

DATE : August 2, 2017

FINAL ORDER:

1 Both these Appeals have been filed by the Appellants under Section 35 G of the Central Excise Act, 1944 (for short, Act of 1944) as both the Authorities rejected the prayer of the Appellants of

condonation of 25 days delay in filing the Appeals.

2 Impugned order was passed on 25 May 2012, served on the Applicant on 30 May 2012. The original was was received on 30 May 2012. The Appeals, in view of the provisions of the Act, were required to be filed within 60 days. Therefore, the Appeals ought to have been filed on 27.08.2012. The fact remained in the present case that the Appeals were filed on 23.08.2012. Therefore, there was delay of 25 days. The statutory limit of 60 days was already crossed, but the Appeals admittedly filed within the further period of 30 days as contemplated under the provisions. It is always subject to the satisfaction of the concerned Tribunal/Authority on facts and circumstances to see whether the Applicant was prevented and/or sufficient cause is shown in not filing the Appeal within the remaining stipulated 30 days period.

3 Considering the averments made and justification so given which, in our view, is sufficient to consider the case of Applicants to condone the delay. The insistence of each and every day details and the reason for not filing the Appeals, in our view, is not required

specifically when there is material placed on record explaining the reason for filing such Appeal beyond 60 days, but within next 30 days. This is not the case that the Appeal were beyond the statutory period of 90 days so contemplated. Therefore, in the interest of justice, we are inclined to condone the delay of 25 days so filed.

4 In view of this, impugned order dated 18.10.2013 passed by the Customs, Excise and Service Tax Appellate Tribunal, West Zonal Bench, Ahmedabad and the order dated 5.2.2013 passed by the Commissioner (Appeals), Central Excise & Customs, Vapi are quashed and set aside. The delay is condoned. The Commissioner (Appeals) to decide the Appeals filed by the Appellants on its own merits. Both the Appeals are allowed accordingly. There shall be no order as to costs.

(BHARATI H. DANGRE, J.) **(ANOOP V. MOHTA, J.)**