THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT. JUSTICE T. RAJANI

CENTRAL EXCISE APPEAL No. 141 of 2017

JUDGMENT: ***(Per VRS,J)***

Aggrieved by the dismissal by CESTAT, of an application for condonation of delay, the assessee has come up with the above appeal.

2. Heard Mr. K. Vijay Kumar, learned counsel for the appellant, and Mr. B. Narasimha Sarma, learned senior standing counsel for Customs, Central Excise and Service Tax, appearing for the respondent.

3. The question of law that arises for consideration is as to whether the Tribunal was right in adopting a pedantic approach in the matter of condonation of delay.

4. In the affidavit filed in support of the condone delay petition, the appellant had claimed that he had studied only up to 5th standard, and that, therefore, he was not conscious of the time limit available for filing the petition. Though ignorance of law is no excuse, the fact remains that the appellant had at least paid 7.5% of the confirmed demand, as a pre-deposit for maintaining the appeal. In cases where any dilatory tactics are adopted by assesses, it may be possible to look into the *bona fides* of the assessees concerned. But, in this case, the

appellant has made a pre-deposit of the amount as required by law, and there was no reason for him to delay the filing of the appeal.

5. In view of the above, the question of law is answered in favour of the appellant and the appeal is allowed. The delay in filing the appeal is condoned and the Tribunal is directed to take up the appeal and decide it on merits.

Consequently, miscellaneous petitions if any pending in the appeals shall stand dismissed. No order as to costs.

____

V. RAMASUBRAMANIAN, J

____

T. RAJANI, J.

22nd August, 2017
cbs

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN √

AND

THE HON'BLE SMT. JUSTICE T. RAJANI

CENTRAL EXCISE APPEAL No.141 of 2017
(allowed)

22nd August, 2017

cbs