IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.156 of 2017

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M/s Ram Baran Singh, through its Partner Shri Ram Baran Singh, Son of Late Ashok Singh, Village & Post- Keshave, P.S.- Barauni, District- Begusarai, Bihar.

.... Appellant/s

Versus

The Commissioner of Central Excise & Service Tax, 3rd Floor, Central Revenue Building, Annexie, Bir Chand Patel Path, P.S.- Kotwali, Patna.

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Nawnit Kumar Tiwary, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICEm jn
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 13-04-2018

This appeal has been filed under Section 35-G of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1944. without entering into the controversy with regard to the issue in question, we find from the order passed by the Central Excise and Service Tax Appellate Tribunal Customs, East Zonal Bench, Kolkata that the appeal filed by the Assessee before the Tribunal was beyond the period of limitation prescribed which was two months and the power given to the Tribunal for condoning the delay is for one month as the appeal in question was filed beyond three months and as the condonation period beyond one month was not permissible in law, the Tribunal applying the law laid down in the case of Ram Baran Singh

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vs. Commissioner of Central Excise and Service Tax, available at page no.116, held that the Tribunal does not have power to condone the delay beyond 30 days and, therefore, has reused to go on merit of the matter.

In our considered view, once under the statute the Tribunal had power of condoning the delay of one month only, in the case of Ram Baran Singh the Hon'ble Supreme Court prohibited the Tribunal from condoning the delay beyond the statutory remedy of one month.

Accordingly, finding no question of law involved in the matter on the face of t he record finding no indulgence to lbe granted exercising the jurisdiction under Section 35 G, we dismiss the appeal.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19-04-2018
Transmission Date	

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