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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 634 of 2018

{Arising out of order dated 05.04.2018 passed by learned Single Judge in Writ Petition (T) Nos. 123 of 2014}

- M/s B.P. Ispat Pvt. Ltd. Through its Director: Shri Sumit Agrawal (Earlier Jayant Kumar Patel) aged about 28 years, Plot No.377, Village Masania Kala, Tahsil Sakti, PS Sakti District Janjgir-Champa (C.G.)

---- Appellant

Versus

1. C.C.E. Raipur Central Excise Building, Dhamtari Road, Tikrapara, Raipur (C.G.)
2. The Additional Commissioner, Customs & Central Excise, Central Excise Building, Dhamtari Road, Tikrapara, Raipur (C.G.)

---- Respondents

For Appellant	:	Shri Pravin Kumar Tulsyan, Advocate.
For Respondents	:	Shri Maneesh Sharma, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board

Per Ajay Kumar Tripathi, Chief Justice

03.12.2018

1. Heard counsel for the Appellants and counsel for the Revenue.

2. Appeal has been preferred against order dated 05.04.2018 passed by the learned Single Judge in WPT No. 123 of 2014. The learned Single Judge dismissed the writ application refusing to interfere with the order of the Commissioner (Appeals), who, vide order dated 14.03.2014, had dismissed the appeal as barred by limitation. The reasons for such dismissal given therein was that the Commissioner (Appeals) had no power to condone the delay beyond additional 30 days after initial expiry of the period of appeal of 60 days as mandated under Section 35 of the Central Excise Act, 1944 (for short, 'Act of 1944').

3. We had occasion to consider the similar matter in Tax Case No. 19 of 2017 decided on 29.11.2018. We have expressed our opinion that the rigors of law laying down the limitation period and the embargo created upon the Commissioner (Appeals) not to grant any condonation beyond the 30 days period after initial expiry of 60 days is supported by law as well as statue.

4. The reasons and rationale given in detail in Tax Case No. 19 of 2017 decided on 29.11.2018 shall also apply as to consideration for not interfering in this appeal against the order of the learned Single Judge.

5. Therefore, the learned Single Judge by refusing to interfere with the impugned order on the ground that the Appellate Authority did not have power to condone the delay beyond 30 days of extended period of limitation cannot be said to be erroneous in any manner.

6. The appeal has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Brijmohan