

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.18739 OF 2007

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring the order in appeal Nos.13, 14, 15 and 16 of 2005 (H-II)CUS, dated 31.03.2005 passed by the 1st respondent against the orders in Original No.7 of 2004, dated 3.12.2004, 8 of 2004, dated 13.12.2004, 10 of 2004, dated 15.12.2004 and 11 of 2004 dated 22.12.2004, as arbitrary and illegal.

Heard Sri M.S.Srinivasa Iyengar, learned counsel appearing for the petitioner and Sri K.Lakshman, learned Assistant Solicitor General, appearing for the 1st respondent.

Petitioner is the granite company and it exports different kinds of granite products. While so, the 2nd respondent without issuing any show cause notice passed orders in Original No.7 of 2004, dated 3.12.2004, 8 of 2004, dated 13.12.2004, 10 of 2004, dated 15.12.2004 and 11 of 2004 dated 22.12.2004, holding that the granite articles exported by the petitioner are not eligible for DEPB benefit under Sl.No.7 of product group code 68. Aggrieved thereby, petitioner had preferred appeals bearing Nos.13, 14, 16 of 2005 before the 1st respondent. But, without considering the same on its own

merits, the 1st respondent has rejected the appeals on the ground of delay and laches.

Learned Assistant Solicitor General appearing for the 1st respondent contends that as the petitioner had not filed any application to condone the delay, the 1st respondent had rightly rejected the appeals preferred by the petitioner.

The record reveals that there is a delay of 10 to 29 days in filing the appeals. The 1st respondent-appellate authority ought to have condoned the delay by giving an opportunity to the petitioner to file an application to condone the delay, but the 1st respondent has mechanically rejected the appeals on the ground of delay. In view of the same and having considered the submissions made on either side, without expressing any opinion on the merits of the case, this Court is of the considered view that ends of justice would be met, if the writ petition is disposed of directing the respondents to pass orders on the appeals preferred by the petitioner, on merits.

Accordingly, the Writ Petition is disposed of. The petitioner is at liberty to file an application to condone the delay in preferring the appeals and upon filing such an application, the 1st respondent-appellate authority is directed to consider the application and to condone the delay, on

merits, and hear the appeals and pass appropriate orders within a period of six months thereafter. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

25th April, 2018
rkk

