

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CEA-24-2017 (O&M)
Date of Decision:22.05.2018**

Principal Commissioner of Central Excise & Service Tax, Ludhiana

... Appellant

Versus

M/s Neelam Steels

... Respondent

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL,
ACTING CHIEF JUSTICE.**

HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Sharan Sethi, Advocate for the appellant.

...

AJAY KUMAR MITTAL, ACJ.

CM-16120-CII-2017:

1. Instant application has been filed under Section 151 CPC seeking condonation of 259 days delay in re-filing the appeal.

2. In view of the averments made in the application, which is supported by an affidavit, the instant application is allowed and delay of 259 days in re-filing the appeal is condoned.

Main case:

1. The present appeal has been preferred under Section 35 G of the Central Excise Act, 1944 assailing an order dated 26.10.2015 (Annexure A4) passed by the Customs, Central Excise & Services Tax Appellate Tribunal, New Delhi in appeal No.E/3133/2009-EX(DB) claiming the following substantial questions of law:

(i) Whether the impugned order of the Hon'ble Tribunal can be

said to be an order made in accordance with law, when the Tribunal has failed to appreciate the facts of the case?

(ii) Whether the benefit of a notification can be extended to the respondent even though the respondent failed to comply with the conditions of the notification?

2. Learned counsel for the appellant stated that various submissions were made before the Tribunal that respondent had not exported the goods to Nepal, but the Tribunal has not discussed any material and the conclusion drawn is contrary to material on record.

3. Accordingly, prayer was made for withdrawal of the appeal with liberty to the appellant to file an appropriate application seeking rectification of the order that the issues/submissions were raised before the Tribunal but the same had not been discussed by it.

4. Dismissed as withdrawn.

5. It shall, however, be open for the appellant to take recourse to the remedies as may be available to it in accordance with law.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

22.05.2018

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |