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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision : July 24, 2018

\+ CUSAA 158/2018, C.M. APPL. No. 29043/2018

G & G ENTERPRISES

..... Appellant

Through: Mr. Rajesh Rawal, Advocate

versus

COMMISSIONER OF CUSTOMS

..... Respondent

Through: Mr. Sanjeev Narula, Senior Standing Counsel with Mr. Abhishek Ghai, Advocate

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

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S. RAVINDRA BHAT, J. (ORAL)

Heard.

Issue Notice.

Mr. Sanjeev Narula, Senior Standing Counsel accepts notice of the appeal.

The appellant's grievance is that copy of the order in original dated 25.06.2004 passed by the Principal Commissioner of Customs (Import) was never received by him when he approached the CESTAT in appeal; his belated appeal was rejected on the ground that the reasons adduced for seeking condonation of delay were unsubstantial.

The record indicates that the appellant was apprised of the order but was given a copy of it for the first time in 2010. The appellant appears to have repeatedly corresponding with the Customs Authority for furnishing a copy of order, after which he approached the Tribunal in 2017. Learned counsel for the appellant highlights the initial adjudication orders that were adverse, culminated in succeeding at the appellate stage before the Hon'ble Supreme Court and that the same evidence was pressed, for the period which is subject matter of this appeal.

We have considered the material on record. It is apparent that there was some considerable laxity on the part of the respondents, who appears to have used different addresses. There is no clear material on record to show that the petitioner was communicated with the order in original and at the same time, this Court notes some laxity on the part of the appellant as well. Nevertheless, the fact remains that the appellant was denied an opportunity to have the order on merits in original adjudication. In appeal, taking into account all factors, this Court is of the opinion that subject to the appellant depositing Rs.25 lakhs (after adjusting the amount of ₹ 5,52,520/- said to have been deposited as pre-condition, before he files an appeal, which lead to the impugned order), within a period of three weeks from today, the appeal before the CESTAT shall stand revived. It is directed that the Tribunal shall proceed to hear the merits of the appeal after adequate notice to the appellant and render its decision on all the aspects so urged and pleaded before it, in accordance with law.

In view of the aforesaid directions, the present appeal filed by the appellant is allowed and the matter is accordingly remitted to CESTAT for consideration of the appellant's appeal on its merits.

The appeal stands disposed of in the aforesaid terms.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JULY 24, 2018
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