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

**CEA-15 of 2019 (O&M)**
**Date of decision: 14.10.2019**

Principal Commissioner of Central Excise and Service Tax, Panchkula

...Appellant

Versus

Ashok Nayyar

...Respondent

**CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present: Mr. Arun Sharma, Advocate, for
Mr. T.K. Joshi, Advocate,
for the appellant.

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**JAISHREE THAKUR, J. (ORAL)**

**CM-2103-CII-2019**

This is an application that has been filed seeking condonation of delay of 270 days in re-filing the appeal.

For the reasons mentioned in the application, the same is allowed.

Delay of 270 days in re-filing the appeal stands condoned.

**CM-2104-CII-2019**

This is an application that has been filed under Section 5 of the Limitation Act seeking condonation of delay of 270 days in filing the appeal.

For the reasons mentioned in the application, the same is allowed.

Delay of 270 days in filing the appeal stands condoned.

**Main case**

The respondent-Ashok Nayyar is the Director of M/s Kunal Calcium Limited who along with many other companies/ proprietary concerns/ partnership firms were proceeded against for "the clandestine removal of goods". The Assistant Commissioner (Adjudication) vide original order dated 05.03.2009, inter alia, imposed an amount of penalty on the present respondent - Ashok Nayyar (Director) M/s Kunal Calcium Limited as also its respondent-Director filed their appeals, and the Customs Excise @ Service Tax Appellate Tribunal, Chandigarh Bench (for short 'CESTAT') vide its order dated 16.12.2015 set aside the order in original and decided in favour of the Company as also the Directors / CEO's concerned. Hence, the revenue has filed the present appeal under Section35G of the Central Excise Act, 1994 (for short 'the Act) assailing the final order dated 16.12.2015 passed by the CESTAT, whereby penalty imposed upon respondent-Director was set aside.

At the time of hearing of the arguments, learned counsel for the appellant concedes that the connected appeal filed by the Revenue assailing the aforesaid common order passed in the case of M/S Kunal Calcium Limited stands dismissed in CEA 12 of 2018 decided on 13.11.2018 titled as Principal Commissioner of Central Excise and Service Tax, Panchkula vs. M/S Kunal Calcium Limited on the ground that the appeal has to be filed before the Hon'ble Supreme Court under Section 35 L of the Act.

In view of the aforesaid conceded position, the present appeal is dismissed in the same terms as CEA 12 of 2018 decided on 13.11.2018.

**(JASWANT SINGH)**
**JUDGE**

**14.10.2019** **(JAISHREE THAKUR)**
*Satyawan* JUDGE