

ORDER SHEET
WPO/125/2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SAMUDERA SHIPPING LINE (INDIA) PVT. LTD. & ANR.
Versus
THE COMMISSIONER OF CUSTOMS (APPEALS) & ANR.

BEFORE:
The Hon'ble JUSTICE SHEKHAR B. SARAF
Date : 15th December, 2020.

Mr. Suddhasatva Banerjee with Mr. Kuldip Mullik,
Mr. Subhojit Roy & Ms. Sayantika Mitra, Adv.
... for the petitioner

Mr. Bhaskar Prasad Banerjee, Adv.
... for the respondent

This is an application under Section 226 of the Constitution of India wherein the writ petitioner is aggrieved by an order dated January 10, 2020 passed by the Commissioner of Customs (Appeal), Customs House, Kolkata, against an order in original dated September 27, 2019. The appellate authority has rejected the appeal on the ground that sufficient cause was not shown for condonation of delay in filing of the appeal beyond the stipulated period of 60 days. It is to be noted that the appeal was filed on the 84th day and Section 128 of the Customs Act, 1962 allows condonation of delay beyond 60 days' period upon sufficient cause being shown.

Mr. Suddhasatva Banerjee, learned Counsel appearing on behalf of the petitioner, has placed the grounds for condonation of delay that had been filed before the appellate forum.

I am satisfied with the same and see no reason as to why the said condonation of delay was not allowed by the appellate authority. In light of the same, the order of the appellate authority dated January 10, 2020 is quashed and set aside with a direction upon the appellate authority to hear out the matter de novo on merits within a period of four weeks from date.

Since no affidavits have been exchanged, allegations contained in the writ petition shall be deemed not to be admitted.

With the above observation the writ petition is disposed of.

There will be no order as to costs.

(SHEKHAR B. SARAF, J.)