

ORDER

O – 208

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CENTRAL EXCISE)
ORIGINAL SIDE

CEXA/11/2020
IA NO: GA/1/2020
GA/2/2020
COMMISSIONER OF CENTRAL EXCISE, BOLPUR
VS
M/S. STEEL AUTHORITY OF INDIA LIMITED

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
AND
THE HON'BLE JUSTICE AJAY KUMAR GUPTA
Date : 4th July 2024.

Appearance:

Mr. K.K. Maiti, Advocate
Mr. Abhradip Maity, Advocate
Mr. Shovit Betal, Advocate
... for appellant.

1. Heard Sri K. K. Maiti, learned senior standing counsel for the appellant and Sri Shovit Betal, learned counsel for the respondent.
2. This appeal has been filed beyond limitation by 705 days along with a delay condonation application being GA/1/2020.
3. In the aforesaid delay condonation application, the appellant has explained the delay of 705 days, as under:-

- “2. Your petitioner states that the certified copy of the order dated 23.03.2018 passed by the Learned Tribunal was received by the Department on 27.04.2018.*
- 3. Your petitioner states that after going through the said order it was found that the Learned Tribunal without appreciating the facts and the definition of "Capital Goods" as enumerated*

under Rule 2(a) of the Cenvat Credit Rules, 2004 has wrongly set aside the Order-in-Original and allowed the appeal with consequential relief. Thereby, the Department has decided to challenge the said order before the Hon'ble High Court, Calcutta for appropriate order.

4. *Your petitioner states that the Department thereafter has instructed their Learned Advocate to prepare the Appeal and Stay application against the said order dated 23.03.2018.*
 5. *Your petitioner states that the Learned Advocate thereafter neither drafted the appeal nor filed the same and as such the department was unable to file the appeal within the stipulated period. Thereafter the department continuously requested the Learned Advocate to file the same but no step has been taken.*
 6. *Your petitioner states that thereafter the department has took back the documents from the erstwhile Learned Advocate and supplied the said documents to the present Learned Advocate on 17.03.2020 and the Learned Advocate going through the same has prepared the draft appeal and application on 23.03.2020 and forwarded the same to the department for vetting.*
 7. *Your petitioner states that the department thereafter placed it before the appropriate authority for verification of the said copies.*
 8. *Your petitioner states that the Department could not forward the said vetted copies of Memorandum of Appeal and Stay Application due to Lock down for COVID-19 and on 03.07.2020 the Department on 11.08.2020 forwarded the said vetted copies of the appeal and application to the Learned Advocate.*
 9. *Your petitioner states that the statutory period of 180 days to prefer the appeal against the order dated 23.03.2018 has been expired on 04.10.2018.*
 10. *You petitioner states that at the time of filing of the said appeal it is found that there is delay of about 705 days."*
4. From the afore-quoted explanation of the appellant for condonation of delay of 705 days, it is evident that despite the impugned order dated 23.03.2018 having been received by the appellant on 27.04.2018, no

date-wise disclosure of the steps taken has been made in paragraphs 3, 4 and 5 of GA/1/2020. When the appellant instructed its counsel and who was the counsel have not been disclosed. The appellant has not even disclosed about steps taken by it for filing appeal after allegedly instructing an undisclosed counsel. Thus, the appellant has completely failed to explain the delay from 04.10.2018 till 17.03.2020. Under the circumstances, the delay in filing the appeal cannot be condoned.

5. Therefore, the delay condonation application being GA/1/2020 is hereby **rejected**. Consequently, the appeal and all other pending applications also stand **dismissed**.

(SURYA PRAKASH KESARWANI, J.)

(AJAY KUMAR GUPTA, J.)

S. Kumar