

ORDER

O – 390

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

CEXA/15/2021
IA NO: GA/1/2021
GA/2/2021
COMMISSIONER OF CENTRAL EXCISE, BOLPUR
VERSUS
M/S. ALLOY STEELS PLANT

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
AND
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date : 3rd May 2024.

Appearance:

Mr. K. K. Maiti, Advocate
... for the appellant.

Mr. Shovit Betal, Advocate
... for the respondent.

Order on delay condonation application [GA/1/2021]

1. Heard Sri K. K. Maiti, learned senior standing counsel for the appellant and Sri Shovit Betal, learned counsel for the respondent. This appeal has been filed beyond limitation by 1,006 days along with delay condonation application.
2. Learned counsel for the appellant/applicant states that delay has been explained in paragraphs 4 to 10 and paragraph 16 of the application and on that basis, the delay may be condoned. Learned counsel for the respondent submits that the appellant has completely failed to offer any

acceptable explanation for delay for the period from 27.04.2018 till November 2018 and thereafter from November 2018 to 17.03.2020 and as such, the delay cannot be condoned.

3. We have carefully considered the submissions of learned counsel for the parties and perused the delay condonation application [GA/1/2021]. We find that in paragraph 2, the appellant has admitted that the certified copy of the impugned order dated 23.03.2018 was received by the department on 27.04.2018. The appellant had taken no action to file appeal for a considerably long period of time. In paragraph 4, it has been vaguely stated that the “department has instructed their learned advocate on November 2018 to prepare the appeal and stay application”. Neither the name of the advocate has been disclosed nor any specific date of November 2018 has been disclosed nor it has been disclosed as to why the appellant could not take any step within a reasonable time after it received the order on 27.04.2018. In paragraphs 5 and 6 of the application, it has been vaguely stated that the erstwhile learned advocate had not taken any step to prepare the appeal and for that reason, the documents were collected from the erstwhile advocate on 17.03.2020. Thus, for a period of about 18 months, no action was taken by the appellant to file appeal and even no explanation has been offered for such a long delay.

4. In view of the facts afore-noted, the delay in filing the appeal cannot be condoned. Consequently, the delay condonation application is rejected.

Order on Appeal

5. Since delay condonation application has been rejected, therefore, the appeal stands dismissed.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

S. Kumar