ORDER O – 420

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

CEXA/45/2017
IA NO: GA/1/2017 (OLD NO: GA/4054/2017)
GA/2/2017 (OLD NO: GA/4055/2017)
COMMISSIONER OF CENTRAL EXCISE, KOLKATA IV, COMMISSIONERATE
VERSUS
M/S. TATA MOTORS LIMITED

BEFORE :

THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
AND
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ

Date : 1st March 2024.

Appearance:

*Mr. K.K. Maity, Advocate*
*Mr. Abhradip Maity, Advocate*
*... for the appellant.*

*Mr. Vasudev A., Advocate*
*... for the respondent.*

1. Heard Sri K. K. Maity, learned senior standing counsel for the appellant.

2. This appeal is reported to have been filed beyond limitation by 704 days along with the delay condonation application.

3. The impugned order No. FO/A/75365/2015 dated 13.07.2015 in Excise Appeal No.855/2011 was passed by the Customs, Excise and Service Tax Appellate Tribunal, East Regional Bench: Kolkata, whereby the appeal of the respondent assessee was disposed of and the matter was remanded to the adjudicating authority i.e. the concerned

Commissioner for deciding the case afresh on eligibility of credit taken on various items of iron and steel products on the basis of evidences on record during the course of de novo proceedings including the examinations on the issue of limitation as well.

4. The aforesaid impugned order of the tribunal was received by the appellant on 20.7.2015. The memo of appeal has been presented by the appellant on 20.12.2017. The limitation for filing appeal was 180 days. Thus, the present appeal has been filed beyond limitation by 704 days.

5. We have perused the GA/4054/2017. On perusal of the delay condonation application we find that the appellant has completely failed to explain the delay. It is admitted case of the appellant that the copy of the impugned order of the tribunal was received by the Kolkata Commissionerate on 20.7.2015. The respondent/assessee has also informed about the impugned order of the tribunal by letter dated 28.7.2015 addressed to the Commissioner which was received by the appellant LTU along with the copy of the order and other documents on 4.8.2015. The appellant LTU (Large Tax Unit) vide letter dated 25.8.2015 asked the Kolkata Commissionerate for the original certified copy of the impugned order of the tribunal dated 9.6.2015. It is after more than one year of the aforesaid letter dated 25.8.2015 of the LTU Commissionerate that the letter was again faxed on 26.9.2016 and thereafter, the certified copy was forwarded by the Kolkata

Commissionerate to the LTU Commissionerate on 30.9.2016. This gap of one year 25.8.2015 to 26.9.2016 could not be properly explained by the appellant herein. That part, even after receipt of the certified copy, the LTU Commissionerate asked the Kolkata Commissionerate by letter dated 17.1.2017 for the certified copy of the impugned order of the tribunal. This gap of four months is again unexplained. Likewise, the delay between April 2017 to July 2017 and August 2017 to December 2017 has also not been properly explained.

6. Since the appellant has completely failed to offer any acceptable explanation for the delay, therefore, the long delay of 704 days in filing the appeal cannot be condoned. The delay condonation application being GA/4054/2017 is hereby rejected. Consequently, the appeal also stands dismissed.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

S. Kumar/S.Das