

**IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION
ORIGINAL SIDE**

CEXA 60 OF 2024

IA NO: GA 2 of 2024

**SHREE SHYAM STEEL CO
VS
COMMISSIONER OF CENTRAL TAX, CGST AND CENTRAL EXCISE**

BEFORE:

**THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
AND**

THE HON'BLE JUSTICE UDAY KUMAR

For the Appellant : Mr. N.K. Chowdhury, Adv.
Mr. Nilotpal Chowdhury, Adv.
Mr. Prabir Bera Adv.

For the Respondent : Mr. Vipul Kundalia, Sr. Adv.,
Mr. Anurag Roy, Adv.,
Mr. Dhirodatta Chaudhuri Adv.

Hearing concluded on : 04.12.2025

Judgment on : 24.12.2025

Uday Kumar, J:-

1. This appeal, preferred by the Assessee under the statutory mandate of Section 35G of the Central Excise Act, 1944, assails the legality of Interim Order No. 142/2024 (Defect) dated 14.05.2024, passed by the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), Eastern Zonal Bench, Kolkata. By the said order, the learned Tribunal refused

to condone a delay of **2262 days** in filing the statutory appeal against the Order-in-Original, resulting in a summary dismissal of the Assessee's plea upon the characterization of their inaction as "total negligence."

2. The timeline of the delay is bifurcated into two distinct phases. The statutory limitation for filing the appeal expired on **10.04.2018**; however, the appeal was eventually preferred only on **28.03.2024**. The Appellant sought to bridge this hiatus by pleading *bona fide* reliance upon the **Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (SVLDRS)**. An application under the said Scheme was filed on **18.12.2019**, but the Appellant asserts that they remained oblivious to its rejection until late 2023.
3. The learned Tribunal dismissed the application on two primary grounds:
 - i. The period between the expiry of limitation (April 2018) and the filing of the SVLDRS application (December 2019) remained unaccounted for.
 - ii. The rejection status was available on a public web portal as of 20.01.2020; hence, the plea of ignorance was deemed unsustainable in the eyes of the law
4. Mr. N.K. Chowdhury, learned Counsel for the Appellant, assisted by Mr. Nilotpal Chowdhury and Mr. Prabir Bera, forcefully submitted that the Tribunal's decision was founded upon an unduly technical and rigid interpretation. He emphasized that the delay was actuated

by a *bona fide*, albeit perhaps misguided, attempt to avail a statutory amnesty. Pressing the jurisprudential standard set in **N. Balakrishnan v. M. Krishnamurthy (1998) 7 SCC 123**, he urged that the expression "sufficient cause" must be liberally construed, as the acceptability of the explanation is the sole criterion, regardless of the length of the delay.

5. Conversely, Mr. Vipul Kundalia, the learned Senior Advocate/Authorized Representative for the respondent / Revenue, assisted by Mr. Anurag Roy and Mr. Dhirodatta Chaudhuri, sought to defend the impugned order, by stressing the gross negligence evident in the initial period of delay. He further argued that the failure to verify the publicly accessible online status for nearly four years evinced a profound lack of diligence, justifying the finding of "total negligence" under the rigors of Section 5 of the Limitation Act, 1963.
6. After hearing the learned counsel for the parties and perusing the materials on record, the **Substantial Question of Law** that arises for our consideration is:

"Whether the learned Tribunal was justified in adopting a hyper-technical approach by refusing to condone the delay, thereby extinguishing the Appellant's right to challenge a significant financial penalty on merits, especially when the delay was attributed to the pursuit of a State-sponsored Amnesty Scheme?"

7. The factual matrix, while involving a staggering delay, is relatively straightforward. The statutory limitation for filing the appeal before

the CESTAT expired on **10.04.2018**. The appeal was eventually filed on **28.03.2024**. The Appellant's primary explanation for this hiatus is their participation in the **Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (SVLDRS)**. The Appellant contends that having applied for the scheme in December 2019, they were under a *bona fide* belief that the dispute would be settled. It was only in late 2023 that they allegedly realized their application had been rejected on the portal.

8. The learned Tribunal took a stern view, characterizing the conduct of the Appellant as "total negligence." The Tribunal held that the Appellant failed to explain the "initial lethargy" between April 2018 and the launch of the SVLDRS in 2019. Furthermore, it was observed that since the rejection status was available on the public portal, the Appellant could not plead ignorance.
9. We find ourselves unable to subscribe to the view taken by the learned Tribunal. It is a well-settled principle of law that the expression "**sufficient cause**" under **Section 5 of the Limitation Act, 1963**, must receive a liberal construction to advance the cause of justice. As held by the Hon'ble Supreme Court in **Collector, Land Acquisition, Anantnag v. Katiji (1987) 2 SCC 107**, when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred.
10. In matters of taxation, the State should not be seen as a litigant interested in benefiting from the procedural lapses of its citizens. The **SVLDRS, 2019** was a beneficial, State-sponsored mechanism

intended to clear the backlog of "legacy" disputes. Even if the Appellant's application was ultimately found to be ineligible—being a co-noticee—the act of applying for such a scheme is a clear manifestation of an intent to resolve the liability. It cannot be termed as a "dilatory tactic" or *mala fide* conduct.

11. Regarding the Tribunal's observation on the Appellant's "initial lethargy," we must emphasize that the law of limitation is not meant to be an "extinguishing engine" for substantive rights. Once it is shown that the subsequent delay was rooted in a *bona fide* pursuit of a settlement scheme, a slightly broader view must be taken of the preceding period.
12. Furthermore, we cannot ignore the global disruption caused by the **COVID-19 pandemic**. The Hon'ble Supreme Court, in its **Suo Motu Writ Petition (C) No. 3 of 2020**, took cognizance of the hardships faced by litigants and directed the exclusion of the period from **15.03.2020 to 28.02.2022** for the purposes of limitation. The Tribunal's expectation that the Appellant should have monitored the digital portal daily during this period is, in our considered view, divorced from the ground realities of the time.
13. The Order-in-Original in the present case imposes a penalty of **Rs. 10,23,864/-**. To deny a citizen the right to test the legality of such a penalty on the grounds of a non-deliberate delay would be unconscionable. Justice should not be a casualty of procedural rigidity. As observed in **N. Balakrishnan v. M. Krishnamurthy**

(1998) 7 SCC 123, the length of the delay is irrelevant; what matters is the acceptability of the explanation.

14. The Order-in-Original imposes a penalty of **Rs. 10,23,864/-**. To deny a citizen the right to test the legality of such a penalty on the grounds of a non-deliberate delay would be unconscionable. Law is not meant to be an extinguish any substantive rights.
15. While we are inclined to condone the delay, we are also mindful of the fact that the Revenue has been put to inconvenience due to the prolonged duration of this litigation. Therefore, the condonation must be balanced with the imposition of costs.
16. For the reasons stated above, the appeal is **allowed** and the following directions are issued:
 - i. The Interim Order dated 14.05.2024 is **set aside**.
 - ii. The delay of 2262 days in filing the appeal before the CESTAT is condoned, subject to the Appellant paying a cost of **Rs. 10,000/- (Rupees Ten Thousand only)** to the Respondent/Revenue within **four weeks** from the date of receipt of this order.
 - iii. Upon production of proof of payment, the learned Tribunal is directed to restore the appeal to its original number and decide the matter on its merits, after affording both parties a fair opportunity of being heard.
17. The Substantial Question of Law is therefore, answered in favour of the Appellant. There are no further orders as to costs.

18. The appeal is disposed of on the aforementioned terms.
19. Urgent photostat certified copy of this judgment, if applied for, be delivered to the parties upon compliance with all legal formalities.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)