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C.M.A.No.560 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

C.M.A.No.560 of 2025
and C.M.P.Nos.4288 and 4290 of 2025

Sruthi Raj

... Appellant

vs.

The Commissioner of CGST & C.Ex.,
Chennai South Commissionerate,
No.692, MHU Complex,
Nandhanam, Chennai-600 035.

... Respondent

Prayer : Appeal filed under Section 35G of the Central Excise Act, 1944 against the Miscellaneous Order No.40425 of 2024 in ST/COD No.40661 of 2024 in Appeal Diary No.41461 of 2024 passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai.

For Appellant(s): Ms.Akila S

For Respondent(s): Mr.A.P.Srinivas
Sr. Standing Counsel



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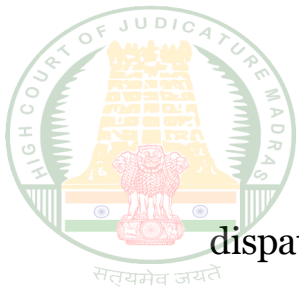
JUDGMENT
(Delivered by the Hon'ble Chief Justice)

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Appellant is impugning an order dated 12.12.2024 passed by Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai (CESTAT), rejecting appellant's application for condonation of delay in filing the appeal. Appellant sought to impugn an order dated 29.3.2023 passed by the Commissioner (Appeals-II) before the CESTAT.

2. It is appellant's case that appellant never received a copy of the said order dated 29.3.2023 and appellant got to know, for the first time, only when appellant's bank account was frozen by the department.

3. Appellant has filed with the appeal a copy of the communication dated 11.11.2024 received by appellant under the Right to Information Act, in which it is noted that the order that was



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dispatched by speed post on 30.3.2023 came to be returned undelivered. Why it was returned undelivered, no reason is given.

There is no affidavit from the department or explanation referred to in the impugned order. The communication received under the Right to Information Act states that the order was thereafter sent by email to vijaysukumarca@gmail.com on 13.4.2023 at 2.59 pm. However, the impugned order does not refer to any of this.

4. Moreover, it is appellant's case that said Vijay Sukumar, who was appellant's Chartered Accountant, stated that he has not received the email and perhaps the order would have got lost in spam folder in email account.

5. In these circumstances, since there is no evidence to counter appellant's case, in our view, the delay, if any, ought to be condoned.

6. Consequently, the order dated 12.12.2024 is quashed and set



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aside. The Registry of CESTAT shall register the appeal and place it before the Tribunal for appropriate orders on merits.

Appeal is disposed of accordingly. There shall be no order as to costs. Consequently, interim applications stand closed.

(K.R.SHRIRAM, C.J.)

(MOHAMMED SHAFFIQ, J.)

23.04.2025

Index : Yes/No
NC : Yes/No
sasi

To

1. The Commissioner of CGST & C.Ex.,
Chennai South Commissionerate,
No.692, MHU Complex,
Nandhanam, Chennai-600 035.
2. The Deputy Registrar
Customs, Excise and Service Tax Appellate Tribunal,
Shastri Bhavan, Annexe Building, 1st Floor,
26-Haddows Road, Chennai – 600 006.



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THE HON'BLE CHIEF JUSTICE
AND
MOHAMMED SHAFFIQ, J.

(sasi)

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