IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

W.P.Nos. 30552 & 30557 of 2025
and
W.M.P.Nos. 34241 & 34243 of 2023

M/s. Mobis India Limited,
Rep. by its Deputy General Manager,
Shri Anand A
Plot No. G1-G4, SIPCOT Industrial Park,
Irungattukottai, Sriperambudur Taluk,
Kanchipuram – 602 117. .. Petitioner
in both W.Ps

vs

The Principal Commissioner of Customs (Air Cargo),
New Customs House,
Chennai VII Commissionerate
Air Cargo Complex, Meenambakkam,
Chennai – 600 016. .. Respondent
in both W.Ps

Prayer in W.P.No. 30552 of 2025 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus and call for the records pertaining to the impugned Miscellaneous Order No. 40742/2025 dated 09.07.2025 passed by the Hon'ble Customs, Excise & Service Tax Appellate Tribunal, Chennai and quash the same and further direct the Hon'ble Tribunal to hear the appeal filed by the appellant on merits or issue any other writ or order or direction as this Court may deem fit and proper in the circumstances of the case.

Prayer in W.P.No. 30557 of 2025 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari and call for the records pertaining to the impugned Order-in-Original No. 3023/2024 dated 28.09.2024 passed by the respondent and quash the sameor issue any other writ or order or direction as this Court may deem fit and proper in the circumstances of the case.

For Petitioner	:	Mr.Hari Radhakrishnan (In both petitions)
For Respondent	:	Mr.B.Sivaraman Junior Panel Counsel (in both petitions)

COMMON ORDER

(Delivered by Dr. ANITA SUMANTH.,J)

In W.P.No.30552 of 2025, the petitioner has challenged an order of the Customs, Excise & Service Tax Appellate Tribunal, Chennai (in short 'Tribunal') dated 09.07.2025 rejecting the appeal filed challenging the order-in-original passed by the Principal Commissioner of Customs, albeit with a delay of 145 days.

2. Normally, we would not interfere in a discretionary order of this nature, where the Tribunal has been of the view that proper reasons have not been made out persuading them to condone the delay.

3. The application for condonation of delay filed by the appellant

admittedly, contains no proper explanation and we hence cannot ascribe any blame upon the Tribunal for arriving at the conclusion that it has. In the condonation application, the delay has been explained as follows:

> ....
> *3. It is submitted that the appellant was not aware of the impugned order until they received oral communication from the Customs on payment of duty as ordered in the impugned order. Immediately, the appellant verified with their logistics department and came to know that the impugned order was misplaced by the concerned staff and she failed to put up the same to the knowledge of the head of the department for taking further course of action.*
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> *4. It would not go out of the context to mention that in respect of import of same BCM/IBU through Chennai Sea Customs, the classification of CTH 9032 was accepted by the Chennai – II Import Commissioner vide Order-in-Original No.84604/2021 dated 31.05.2021, against which the Customs Department has filed an appeal (Appeal No.C/0040614/2021-DB) and the same is pending before this Hon'ble Tribunal. Hence, it is obvious that we would have filed appeal against the impugned order within the time limit but for the failure of the concerned staff to bring the same to the knowledge of the appellant company.*
>
> *5. It is submitted that the delay is purely unintentional and due circumstances beyond the control of the appellant and there has been no mala fide intent.'*

4. Before us, Mr.Hari Radhakrishnan, learned counsel for the petitioner, while acceding that the delay had not been properly explained before the Tribunal, produces the following documentary evidences to justify the delay of 145 days: i) Medical Certificate of S.Saranya (employee) dated 04.10.2024, ii) Official Memo issued to the employee

on 28.09.2024 and iii) Explanation of the employee dated 30.04.2025.

5. The aforesaid documents have been filed only before us and have not been produced before the Tribunal. However, they are supported by affidavit dated 01.08.2025 accompanying the Writ Petition. We would also, under normal circumstances have been reluctant to consider new documents, but however, are persuaded in light of the explanation that is tendered now.

6. The relevant dates in the matter are as follows:

(a) The impugned order of the Principal Commissioner of Customs is dated 28.09.2024.

(b) The date of receipt of the aforesaid order is on 01.10.2024.

(c) Limitation under Section 129A of the Customs Act, 1962 for filing of appeal before the Tribunal is three months from date of receipt of order.

(d) The limitation expires on 01.01.2025.

(e) According to the affidavit filed by the Deputy General Manager of the company, who heads the Department where the concerned employee was stationed, the impugned order was received by the employee and kept on file. However, she was absent between 04.10.2024 and 20.12.2024 for medical reasons.

(f) A medical certificate of the employee has been produced, wherein it is stated that the employee was afflicted with *'very severe chicken pox with pustular lesions of the face & trunk, severe aphthous stomatitis (oral & throat) respiratory infection'*.

7. The employee had returned to duty on 23.12.2024 but had lost sight of the order in between. In April, 2025, the authorities of the Department had contacted the petitioner seeking recovery of the demand, thereafter, an enquiry was caused and on 29.04.2025, the concerned employee had located the order. The appeal was hence filed on 15.05.2025 with a delay of 145 days.

8. The above reasons are compelling and explain the delay satisfactorily. We are hence of the considered view that the delay has been explained and sufficient cause has been made out. The impugned order is, hence, set aside and the appeal is restored to the file of the Tribunal.

9. The first hearing of the appeal before the Tribunal shall be on 03.09.2025 and no notice need be issued for the aforesaid hearing of the appeal, as the same has been taken note of by the learned counsel for the petitioner.

10. W.P.No.30552 of 2025 stands allowed. Since order-in-original

dated 28.09.2024, is the subject matter of challenge before the Tribunal in the appeal, W.P.No.30557 of 2025, challenging the same order stands dismissed. No costs. Connected Miscellaneous Petitions are closed.

[A.S.M., J] [N.S., J]
20.08.2025

Index:Yes/No
Speaking Order/non-speaking order
Neutral Citation:Yes/No
sl

To

The Principal Commissioner of Customs (Air Cargo),
New Customs House,
Chennai VII Commissionerate
Air Cargo Complex, Meenambakkam,
Chennai – 600 016.

DR. ANITA SUMANTH, J.
and
N.SENTHILKUMAR, J.

sl

W.P.Nos. 30552 & 30557 of 2025

20.08.2025