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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **CUSAA 82/2025, CM APPLs. 29338/2025, 29340/2025 & 29341/2025**

M/S THREEPENCE CRAFT .....Appellant

Through: Mr. Chinmaya Seth, Mr. A.K. Seth, Ms. Palak Mathur & Mr. Varun Phore, Advs.

versus

COMMISSIONER OF CUSTOMS .....Respondent

Through: Mr Aakarsh Srivastava, Senior Standing Counsel with Mr. Anand Pandey, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 15.05.2025

1. This hearing has been done through hybrid mode.

CM APPLs. 29338/2025, 29340/2025 & 29341/2025 (for exemptions)

2. Allowed, subject to all just exceptions. Applications are disposed of.

CUSAA 82/2025 & CM APPL. 29339/2025

3. The present appeal has been filed by the Appellant– M/s Threepence Craft challenging the Defect Miscellaneous Order No. 50132/ 2025 dated 10th February, 2025 *(hereinafter, 'the impugned order')* passed by the Customs, Excise & Service Tax Appellate Tribunal *(hereinafter, 'the CESTAT')*.

4. *Vide* the impugned order, the CESTAT has dismissed the application filed by the Appellant *i.e.*, ***Customs Condonation of Delay Application No. 51908 of 2024*** on the ground of delay.

5. The brief background of this case is that an investigation was conducted against the Appellant Company and its Partners on the allegation that certain goods were exported by them which were highly over-valued, only with the intention to earn duty drawbacks.

6. Pursuant to the investigation, a Show Cause Notice was issued upon the Appellant Company on 14th August, 2013 by the Additional Commissioner, Customs & Central Excise, Delhi-IV, Faridabad and a detailed reply dated 27th June, 2016 was filed. Thereafter, the Order-in-Original bearing no. 44/JC/PPG/233-47/19-20 was passed on 26th September, 2016. The same was further challenged by the Appellant along with the Department before the Commissioner of Customs (Appeals).

7. *Vide* order dated 28th May, 2019, the Commissioner of Customs (Appeal) upheld the Order-in-Original dated 26th September, 2016. It was further held that the goods were exported by the Appellant company under fraudulent duty drawback claims, rejecting 153 shipping bills and rendering them liable for confiscation under Section 113 of the Customs Act, 1962. The matter was partially remanded to the adjudicating authority for a fresh determination of penalties under Section 114(iii) of the Customs Act, 1962.

8. In the meantime, the Enforcement Directorate (hereinafter, '*ED*') also initiated an investigation against the Appellant along with the ongoing investigation by the Directorate of Revenue Intelligence (hereinafter, '*DRI*').

9. The case of the Appellant herein is that it is a partnership firm of which Mr. Sajjan Kumar is one of the partners. Mr. Sajjan Kumar, was arrested on 25th September, 2021 and he subsequently faced various medical issues due to which his health condition is stated to have deteriorated.

10. The Order-in-Appeal No. CC(A)/CUS/D-II/ICD/PPG/233-247/19-20

dated 28th May, 2019, passed by the Commissioner of Customs (Appeal) was challenged by the Appellant before the CESTAT. The said appeal was filed after the COVID-19 pandemic, only on 29th January, 2024. Thus, there was a substantial delay in the filing of the appeal of more than 1607 days. The said timeline is captured in brief hereinbelow:

Date of Order in Appeal	28.05.2019
Date on which the Appellant received the Order in Appeal	03.06.2019
Date on which limitation period of three months for filing appeal under Section 129 of Customs Act, 1962 expired	02.09.2019
Appeal filed on	29.01.2024
Total Days of Delay	1607 days

11. On 10th February, 2025, CESTAT dismissed the appeal filed by the Appellant holding that the Appellant had failed to satisfactorily explain the delay of 1607 days.

12. The case of the Appellant is that the medical condition of the Appellant's Director, coupled with the period of COVID-19 pandemic would completely justify the delay in filing the appeal and thus, sufficient cause has been shown.

13. It is further submitted that, in fact, the Appellant Company's Partner was in custody due to the proceedings before the ED and during such period he could not take any steps to avail of legal remedies. This position is refuted by ld. counsel for the Respondent who submits that no medical records have been filed prior to 2020 which shows the deteriorating mental health of the Appellant Company's Partner.

14. Additionally, it is submitted that the Appellant has availed of more than Rs.5.2 crores in duty drawbacks due to the alleged transactions and the said amount lies with the Appellant.

15. This Court has considered the matter. The limitation period for filing an appeal under Section 129A of the Customs Act, 1962 is a period of three months. However, Section 129A(5) also provides that if sufficient cause is shown, the delay in filing the appeal can be condoned.

16. After hearing the above stated submissions made by the parties, there are three factors which persuade this Court to consider the issue of condonation of delay:

i. The investigation by the DRI as also by the ED against the Appellant which commenced in 2019 and culminated into the arrest of the Appellant on 25th September, 2021;

ii. The outbreak of the COVID-19 pandemic between 2020 to 2022 which has also been dealt with by the Supreme Court in ***Re: Cognizance for extension of Limitation having Misc. Application No. 21 of 2022 in M.A. No. 665 of 2021 in Suo Moto Writ Appeal (C) No. 3 of 2020.***

iii. The medical condition of the Appellant Company's Partner in respect of which some records have been placed along with the present appeal.

17. In view of these facts, this Court is of the opinion that there is sufficient cause shown by the Appellant to justify the delay in filing the appeal.

18. However, the said delay is being condoned, subject to stringent terms and conditions:

i. The Appellant shall deposit a sum of Rs.2.5 lakhs as costs to the

Delhi High Court Bar Association. The details of the bank account are as under;

Name: Delhi High Court Bar Association

Account No.: 15530100000478

IFSC: UBCA0001553

Bank and Branch: UCO Bank, Delhi High Court

ii. A sum of Rs.2.5 lakhs as costs with the Respondent- Department.

19. It is further directed that no unnecessary adjournments shall be taken before CESTAT. The impugned order is set aside on the above terms and the appeal is restored to its original position before CESTAT and shall now be adjudicated on merits. The said amount of Rs. 5 lakhs shall be deposited by 10th July, 2025.

20. The proof of payment of costs shall be furnished before CESTAT. A copy of this order shall be communicated to CESTAT.

21. List before CESTAT on 28th July, 2025.

22. The appeal is disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 15, 2025

Rahul/ck