CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH – COURT NO. III

E-HEARING

SERVICE TAX APPEAL NO. 51631 OF 2019

[Arising out of Order-in-Appeal No. BHO-EXCUS-001-APP-357-18-19 dated 08.02.2019 passed by the Commissioner (Appeals), GST, Customs & Central Excise,Bhopal (M.P.)]

M/S.ASHENDRA SINGH, **...APPELLANT**
MIG-8, Navrang Park Colony,
Birla Road, Distt.-Satna-485 001 (M.P.).

Versus

COMMISSIONER OF CGST, CUSTOMS
& CENTRAL EXCISE, **...RESPONDENT**
GST Bhawan, Napier Town,
Jabalpur-482 001 (M.P.).

APPEARANCE:
Ms. Asmita A. Nayak, Advocate for the appellant.
Shri Aejaz Ahmad, Authorised Representative for the respondent

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

Date of Hearing/Decision: 24.07.2025

FINAL ORDER NO.51085/2025

BINU TAMTA:

The present appeal has been filed challenging the impugned Order[1] dated 08.02.2025 dismissing the appeal on the ground of delay.

2. The submission of the learned counsel is that the impugned order dated 30.07.2018 was received by them on 10.08.2018. They preferred a

[1] Order-in-Appeal No.BHO-EXCUS—001-APP-357-18-19 dated 08.02.2019

writ petition before the High Court of Madhya Pradesh on 17.09.2018, which was finally disposed of on 20.12.2018 observing that the Appellate Authority would be free to consider and decide the appeal in accordance with law. The certified copy of the High Court order was received by the appellant on 24.12.2018 and the appeal before the Commissioner was filed on 11.01.2019. The submission of the learned counsel is that the period during which the writ petition was under consideration before the High Court needs to be excluded and as a result, there is no delay in filing the appeal as the same is within the limitation period of 2 months. Learned counsel has also placed on record the decision of the Supreme Court in **Laxmi Srinivasa R and P Boiled Rice Mills Vs. State of Andhra Pradesh**[2] where the period from the date of filing the writ petition and the date on which it was dismissed was directed to be excluded and, therefore, the appeal was held to be filed within the condonable period.

3. In view of the decision cited, the impugned order needs to be set aside. The matter is remanded back to the Appellate Authority to consider the same on merits. The appeal is accordingly allowed.

[Order dictated & pronounced in open court]

(BINU TAMTA)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

ckp

[2] 2022 (382) ELT 746 (SC)