
(2014) 11 KL CK 0021
In the High Court Of Kerala
Case No : C.E. Appeal No. 6 of 2013

BSNL (Mobile Services)	Vs	APPELLANT
C.C.E., C. and S.T.		RESPONDENT

Date of Decision : 06-11-2014

Acts Referred:

Citation : (2015) 321 ELT 560 : (2015) 39 STR 558

Hon'ble Judges : Antony Dominic, J;Anil K. Narendran, J

Bench : Division Bench

Advocate : S.K. Devi, Standing Counsel, Advocate for the Appellant; Thomas Mathew Nellimoottil, SC, Advocate for the Respondent;

Judgement

Antony Dominic, J.

1. Heard the learned counsel for the appellant and the learned Standing Counsel appearing for the respondents. This appeal is filed aggrieved by Annexure-A order passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zone Bench, Bangalore, whereby Application No. ST/COD/380/2011 in Appeal No. ST/2790/2011 praying for condonation of delay was dismissed and consequently the appeal was also dismissed.

2. The appellant filed the appeal, along with aforesaid application for condonation of delay. In the application, the delay was stated to be that of 185 days. The application was listed for hearing on 18-1-2013. It is stated that, as the Counsel for the appellant was unable to appear on that date, Annexure-B adjournment petition dated 14-11-2013 was sent and the same was received by the Registry of the Tribunal on 17-1-2014. It is further stated that they had also sent an E-mail on 18-1-2014, a copy of which is Annexure-B2, requesting the Tribunal for an adjournment. According to them, it was in spite of all these that the Tribunal has proceeded to hear the application on 18-1-2013 and dismissed the delay petition on the ground that the delay has not been satisfactorily explained.

3. According to us, when such requests were received by the Tribunal, seeking an

adjournment of the hearing, in the absence of a finding that the request was not made for bona fide reasons, the Tribunal was not justified in rejecting the same and proceeding with the hearing of the matter. We are therefore unable to sustain the order dismissing Application No. ST/COD/380/2011 and the order is set aside.

4. We have gone through the affidavit filed by the petitioner requesting for condonation of delay and we are satisfied that the delay has been satisfactorily explained. The delay in filing Appeal No. ST/2790/2011 will therefore stand condoned.

5. On receipt of a copy of this judgment, the Tribunal will consider the appeal on merits and dispose of the same in accordance with law after affording both the parties an opportunity of being heard. The appeal is allowed as above.