

(2011) 01 DEL CK 0442

In the Delhi High Court

Case No : Criminal M.A. No. 14500 of 2010 in Criminal Revision Petition No. 473 of 1010

Central Excise

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 04-01-2011

Acts Referred:

Citation : (2011) 265 ELT 191

Hon'ble Judges : S.N. Dhingra, J

Bench : Single Bench

Advocate : Satish Aggarwala and Shrisih Aggarwal, for the Appellant; Sunil Sharma, Addl. PP, Zafar Sadique and Asghar Khan, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Narayan Dhingra, J.—This application has been made for condonation of delay in filing this Revision Petition against order dated 11th February, 2010. There is a delay of 105 days. The reasons for condonation of delay as stated are that certified copy of order was ready on 18th February, 2010, the department was advised to assail the order, the department wrote a letter to counsel on 22nd March, 2010 seeking fresh advice. The department was advised by letter dated 18th April, 2010 to file a revision petition. The department was reminded again vide communication dated 16th May, 2010 and another communication dated 1st August, 2010. Ultimately, the department on 25th August, 2010 conveyed the decision to file a revision petition against the order dated 11th February, 2010 and accordingly the revision petition was filed on 31st August, 2010 with a delay of 105 days.

2. I consider that leniency of courts being shown to department for condonation of delay is being misused. When the order dated 11th February, 2010 was passed by the learned ACMM, and the department was advised by its counsel immediately to assail the order, the department was supposed to take action within a reasonable time. Reasonable time in this case was before expiry of

period of limitation for filing the revision petition. It was Standing Counsel of the department who advised her in this case and the department was very well aware that order has to be challenged within a time limit. The department in this case did not act and had to be reminded by the counsel twice.

3. The explanation given for condonation of delay is no explanation and cannot be accepted. I find no force in this application for condonation of delay. The application is hereby dismissed, with the result, the Revision Petition also stands dismissed.