
(2012) 02 SC CK 0051

In the Supreme Court Of India

Case No : Petition for Special Leave to Appeal (Civil) No. 28857 of 2011 with
C.A. No. 4919 of 2011

Commissioner of C. Ex. and Customs, Nasik

APPELLANT

Vs

Rajmal Lakhichand

RESPONDENT

Date of Decision : 10-02-2012

Acts Referred:

Citation : (2012) 278 ELT 577

Hon'ble Judges : D.K. Jain, J;Anil R. Dave, J

Bench : Division Bench

Advocate : B. Bhattacharya, ASG, Judy James, Vivek Narayan Sharma, Sachit Kumar Sahijpal, A.K. Sharma, Ajay Singh, Nimisha Swamp, Neera Dadhwal and B. Krishna Prasad, for the Appellant; Soli Sorabjee and Mukul Rohatgi, Preetesh Kapur, Seema Bengani, Sanbha Giri Rumnong and Kailash Chand, for the Respondent

Final Decision : Allowed

Judgement

1. Having heard learned Senior Counsel for the parties on the question of condonation of delay, we are not satisfied that a sufficient cause is made out for condonation of inordinate delay of 317 days in filing the present special leave petition. Accordingly, the SLP is dismissed on that short ground alone. However, before parting with the case, we would request the Chairman, Central Board of Excise and Customs, to have an enquiry conducted, by a senior officer, in order to fix the responsibility on the officer(s) responsible for causing delay in preferring the present petition. It is pertinent to note that in the SLP (Civil) No. 29989 of 2010, arising out of the same judgment, filed by the Respondent, show cause notice was served on the Department sometime in the month of November, 2010 and counter affidavit on their behalf was filed in January, 2011. Thus, it cannot be pleaded on behalf of the concerned Commissionerate that they were not aware of the impugned order passed by the Tribunal. Yet, for the reasons best known to the department, the present SLP was filed only in the month of June, 2011. We are confident that all these factors will be taken into

consideration by the enquiry officer. The enquiry shall be completed within four weeks of the receipt of a copy of this order. The Chairman shall submit his report within two weeks thereafter for being placed before us.

2. The office shall forward a copy of this order to the Chairman for compliance.