(2015) 02 CHH CK 0028

In the Chhattisgarh High Court

Case No : Tax Case No. 1 of 2014

Raigarh Ispat and Power Pvt. Ltd. — APPELLANT

Vs

Commissioner Customs and Central Excise — RESPONDENT

Date of Decision : 18-02-2015

Acts Referred:

Citation : (2015) 322 ELT 258

Hon'ble Judges : Navin Sinha, A.C.J;P. Sam Koshy, J

Bench : Division Bench

Advocate : Varun Sharma, for the Appellant; Maneesh Sharma, Advocates for the Respondent

Judgement

Navin Sinha, Acting C.J—We have heard learned Counsels for the appellant and the respondent. The present appeal arises from order dated 8-4-2013 passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi (hereinafter referred to as ''the Tribunal'') in Excise Appeal No. 56193 of 2013.

2. Learned Counsel for the appellant submits that the appeal could not be filed before the Tribunal within time and was delayed by 175 days on account of the fact that the previous Chartered Accountant, Shri Sunil Kumar Agrawal of Odisha entrusted with the responsibility did not perform his obligations and the appellant was required to make alternate arrangement which occasioned delay.

3. Learned Counsel for the respondent has opposed the appeal strenuously submitting that even the appeal before the High Court is barred by 104 days.

4. We have considered the respective submissions. The Tribunal appears to have been primarily of the opinion that the explanation for the delay was unacceptable in view of the failure of the respondent to even disclose the name of the Chartered Accountant making their application for condonation of delay casual in nature. Now that the appellant has furnished proper details of the Chartered Accountant in question and also explained the steps taken by it subsequently in the additional affidavit in support of the application for condonation of delay filed

earlier, we are of the considered opinion that a final adjudicatory order is always desirable in preference to an order on technicalities. In the facts of the case, we are satisfied to condone the delay and direct restoration of the appeal before the Tribunal for disposal in accordance with law.

5. All other aspects, including statutory, remain within the discretion of the Tribunal in accordance with law. The order dated 8-4-2013 is set aside. The appeal is allowed.