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Commissioner of Customs (P), Vs. M/S. Global Telesystems (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-27-2001

Appellant : Commissioner of Customs (P),

Respondent : M/S. Global Telesystems (P) Ltd.

Judgement :

1. Vide order No.C-II/2851-52/WZB/2000 dated 12.10.2000 the appeal filed by the Revenue was dismissed on the ground that it was not filed in terms of section 129D of the Customs Act, 1962.The Tribunal observed that in terms of this section, the appeal had to be filed by the Commissioner itself and that the Commissioner should not delegate the filing to another officer.The Commissioner had filed a fresh appeal on 28.11.2000 against the same order as was impugned in the earlier appeal and has then filed an application for condonation of the delay of three years and ninety-seven days. In the application two grounds are made.The first was that the earlier defective appeal was "accepted" by the office of the Tribunal.The second ground is that the original was in time.

2. We do not find either of the claims made as sufficient justification.The order of the larger bench of the Tribunal reproduced in 2000 (120) ELT 201 (CCE vs. Azo Dye Chem) rules that the Tribunal has no power to condone the delay in appeal filed under section 35E of the Central Excise Act, 1944. In view of this judgment we decline to condone the delay and as a result thereof the appeal stands dismissed.

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