

Bsnl. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT

Decided On : Jun-24-2005

Judge : S Peeran, J T T.K.

Appellant : Bsnl.

Respondent : Cce

Judgement :

1. The appellant is a PSU unit who have obtained clearance from the Committee of Secretaries. The appeal has been filed before clearance was obtained. There is a delay of 506 days in one appeal and 642 days in another appeal. The application does not state any reasons instead of the prayer seeking condonation of delay. The application is accompanied by affidavit by which one Shri Narasappa, Assistant General Manager in paras 1,2 & 3 of the affidavit deals about the facts of the case. Para 3 states that the appellant had to seek approval of the higher authorities to prefer the appeal and that caused the delay which is unintentional. Earned Counsel submits that appellant being a PSU Unit should be shown some lenience and the delay be condoned.

2. Learned DR submits that the delay has not been explained. The appellants have not filed any time chart nor it has been stated as to at what stage the delay took place. He submits that as the delay has not been explained, the COD is required to be rejected. Learned advocate at this stage points out about the filing of additional affidavit on 22nd June 2005. The same was called from the Registry.

Even in this additional affidavit, no reasons have been given except to reiterate the earlier reasons.

3. On a careful consideration, we notice that appellants have not explained the enormous delay which has been caused in filing the appeal. The reason given is not sufficient in the light of the Apex Court Judgment rendered in the case of UOI v. Tata Yokogawa 1999 (38) ELT 739 wherein it has been held that the delay in processing the files is not sufficient cause for condoning the delay. As the delay is enormous and no sufficient reasons has been given, therefore, the delay is patent on record. The delay cannot be condoned. The COD is dismissed. The stay application and appeals are also dismissed on time bar.

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