

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE**

REGIONAL BENCH- COURT NO.1

**SERVICE TAX CONDONATION OF DELAY APPLICATION No.20270 OF
2020
In
DEFECT DIARY NO.20434 OF 2020**

[Arising out of Order-in-Appeal No. 537/2018 dated 24.05.2018 passed by the
Commissioner of Central Tax (Appeals-I), Bangalore]

Dr Shalini G Agasthi

No 110 RBD Still Waters Harlur Road HSR
Extension
BANGALORE
KARNATAKA
560102

Appellant(s)

Versus

**Commissioner Of Central Tax,
Bengaluru South
Commissionerate**

5th Floor, C.R. Buildings, PB No-5400,
Queens Road
Bangalore
Karnataka
560001

Respondent(s)

APPEARANCE:

Smt. Seethalakshmi, CA for the Appellant

Smt. C.V. Savitha, Authorized Representative for the Respondent

CORAM: HON'BLE SHRI S.S GARG, JUDICIAL MEMBER

Defect Miscellaneous Order No. 17 / 2021

Date of Hearing: 17/03/2021

Date of Decision:17/03/2021

S.S GARG

The applicant has filed Condonation of Delay application seeking
condonation of delay of 804 days in filing the appeal.

2. Heard both the parties and perused the records of the case.

3. Learned Counsel for the applicant submitted that the delay caused in filing the present appeal is not deliberate and intentional but on account of the fact that the applicant was not aware of the decision of CESTAT granting relief in favour of similarly situated person. She further relied upon the decision of the Hon'ble Supreme Court in case of N. Balakrishnan Vs M. Krishnamurthy wherein the Hon'ble Supreme Court has held that there is no presumption in law that delay in approaching the Court is always deliberate. She further submitted that refused to condone would seriously undermine the cause of justice, resulting into miscarriage of justice for the applicant. Learned Counsel also submitted that during the CORONA period, the limitation for filing the appeal was extended and if we deduct the CORONA period from 1st March 2020 till the filing of the appeal, the delay comes to 555 days which should be condoned in the interest of justice.

4. On the other hand, Learned AR submitted that the delay is inordinate and there is negligence on the part of the applicant for filing the appeal after a long delay.

5. After considering the submissions of both the parties and perusal of the material on record, I find that though the delay is of 555 days but the delay is not deliberate and intentional but on the account of reasons stated by the Learned Counsel for the applicant, hence I condone the delay subject to payment of cost of Rs.10,000/- (Ten Thousand). The said cost shall be deposited in the Prime Minister's CARE Fund and compliance may be submitted on or before 15.04.2021. COD is allowed and Registry is directed to register the appeal after compliance and list in due course.

(Order pronounced in the open court on 17/03/2021)

S.S GARG
JUDICIAL MEMBER

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