

Customs: Appeal period begins from date of receipt of corrigendum: CESTAT

Against an order passed by the Commissioner of Customs (Appeals), the appellant has filed an appeal along with an application for Condonation of Delay (COD) as well as an application for early hearing (EH) of their appeal.

The applicant submitted that there is a delay in filing the appeal. Nonetheless, the appellant informed that the appeal was filed within seven days from the date of issue of corrigendum in the matter of impugned order and, therefore, delay may be condoned.

As for the early hearing application, the appellant pleads that the matter pertains to the period 2008 and is the second round of litigation by the appellant.

The Bench observed thus -

Condonation of Delay:

We find that since the appellant made a representation to the Commissioner (Appeals) for rectifying the short-comings in the order and the Commissioner (Appeals) issued a corrigendum. There was no occasion for appellant to file the appeal unless and until the corrigendum was issued. It is admitted position that the appeal was filed within seven days from the date of issue of corrigendum. Since the corrigendum is part and parcel of the impugned order the period for filing the appeal should be reckoned from the date of corrigendum. Considering this fact, we find that there is no delay in filing the appeal. Therefore, even if there is a delay, the condonation of delay application has to be allowed.

The COD application was allowed.

Early Hearing:

Even though it is the second round of litigation, the appeal is of 2016 only. This Tribunal is overburdened with cases running from the year 2005 onwards. Therefore, it will not be proper to take up the appeal of 2016 on out-of-turn. Therefore, we do not find the reasons stated as satisfactory for out-of-turn hearing.

The EH application was dismissed.