

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No.79609 of 2018
Service Tax Appeal No.79610 of 2018
Service Tax Appeal No.79611 of 2018

(Arising out of Order-in-Appeal No.08-10/ST/Kol/2013 dated 20.02.2013 passed by Commissioner (Appeals) of Central Excise & Service Tax, Kolkata)

M/s LGW Limited

Narayanpur, P.L.Rajarhat-Gopalpur, Dist.-24 Parganas (North), Kolkata-700136

Appellant

VERSUS

Commissioner of CGST & Excise, Kolkata North

180, Shantipally, Rajdanga Main Road, Kolkata-700107

Respondent

APPEARANCE :

Shri Rip Das, Chartered Accountant & Shri Sukalpa Seal, Advocate for the appellant

Shri A.Roy, Authorized Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO...75144-75146/2023

DATE OF HEARING : 22.03.2023

DATE OF DECISION : 22.03.2023

Per Ashok Jindal :

The appellants are in appeal against the impugned order wherein the Ld.Commissioner (Appeals) has dismissed their appeal as time barred in terms of Section 85 (3) of Finance Act, 1994.

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2. Facts of the case are that the appellant has filed the appeal before the Ld.Commissioner (Appeals) against the Order-in-Original, whose details are mentioned herein under :

Sl.No.	Order-in-Original & Date	Date of receipt by the appellant	Date of receipt of Appeal petition in the office of the Commissioner (Appeals)
1	31/Refund/ST/D-II/Kol/08 dated 13.01.2009	24.01.2009	24.08.2012
2.	07/Refund/ST/D-II/Kol/09 dated 24.03.2009	12.04.2009	24.08.2012
3.	26/Refund/ST/D-II/Kol/09 dated 30.06.2009	11.07.2009	24.08.2012

3. On entertaining the appeal, the Id.Commissioner (Appeals) found that the appeal was filed beyond time limit prescribed under Section 85 (3) of Finance Act, 1994, wherein it is prescribed that the appeal is required to be filed within three months from the communication of the Order-in-Original. The period of limitation can be extended for another three months by showing sufficient reasons for delay in filing the appeal. As the appeals have filed before the Ld.Commissioner (Appeals) beyond time limit prescribed, therefore, the same were dismissed as time barred by the Ld.Commissioner (Appeals).

4. Against the said order, the appellants are before me.

5. It is undisputed by the appellants that they have filed the appeals before the Ld.Commissioner (Appeals) against the Order-in-Original beyond six months time limit prescribed under Section 85 (3) of Finance Act, 1994 as observed by the Ld.Commissioner (Appeals) herein above.

Ex..Appeal Nos.79609,79610 & 79611/18

6. In that circumstances, I hold that the appellant has filed the appeals beyond the time limit prescribed under Section 85 (3) of Finance Act, 1994. Accordingly, I do not find any infirmity with the impugned order and the same is upheld.

7. The appeals filed by the appellants are dismissed as time barred.

Dictated and pronounced in the open court)

Sd/-

(Ashok Jindal)
Member (Judicial)

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