

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CEA No.45 of 2014  
Date of decision: 12.03.2015

M/s Balaji Alloys

....Appellant

Versus

Commissioner of Central Excise, Chandigarh

.....Respondent

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE  
HON'BLE MR.JUSTICE G.S.SANDHAWALIA**

Present: Mr.Jagmohan Bansal, Advocate, for the appellant.

Mr.Kamal Sehgal, Advocate, for the respondent.

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**S.J.Vazifdar, Acting Chief Justice** (Oral):

1. The appeal is admitted on the following questions of law raised:

“A. Whether the order passed by Learned Tribunal is perverse and contrary to facts and law?

B. Whether there is a sufficient cause for not presenting appeal within a specified time?

C. Whether order of Tribunal would cause grave mis-carriage of justice?”

2. The Customs, Excise & Service Tax Appellate Tribunal (for short, the 'Tribunal') had dismissed the appeal only on the ground of delay. The Tribunal has refused to condone the delay by observing that the same was on account of negligence of the consultant.

3. The delay was of 132 days. Even assuming that there was negligence on the part of the consultant, considering the extent of delay, the appellant ought not to be visited with such drastic consequences. There was nothing to indicate that there was any negligence on the part of the appellant who had engaged the consultant and not furnished him the instructions to file the appeal.

4. In the circumstances, the order of the Tribunal dated 16.12.2013 (Annexure A1) is set aside. The appeal filed before the Tribunal shall be admitted and heard on merits.

The appeal, accordingly, stands allowed.

**(S.J.Vazifdar)**  
**Acting Chief Justice**

12.03.2015  
**sailesh**

**(G.S.Sandhawalia)**  
**Judge**