



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT PETITION NO. 12372 OF 2025 (T-CUS)

BETWEEN:

AIR INDIA SATS AIRPORT SERVICES PVT LTD
A COMPANY UNDER THE COMPANIES ACT 1956,
REGD. OFFICE A-18,
STREET NO.2,
MAHIPALPUR,
NEW DELHI-110 037

BENGALURU OFFICE ADDRESS

01ST FLOOR, EXPRESS COURIER TERMINAL,
C-19, KEMPEGOWDA INTERNATIONAL AIRPORT,
DEVANAHALLI,
BENGALURU - 560 300

ADDRESS AS SHOWN BEFORE THE TRIBUNAL
PLOT #C, 05 L, KEMPEGOWDA INTERNATIONAL
AIRPORT, DEVANAHALLI,
BENGALURU-560 300.

REP BY MR. CHIKKA THAMMAIAH,
SENIOR MANAGER, HR & IR

...PETITIONER

(BY SRI. HARSHITHA.M, ADVOCATE AND
SRI. ABHISHEK.S, ADVOCATE FOR
SRI. KEERTI KUMAR, ADVOCATE)





AND:

THE PRINCIPAL COMMISSIONER OF CUSTOMS
AIRPORT AND AIR CARGO COMPLEX - BENGALURU
KEMPEGOWDA INTERNATIONAL AIRPORT,
DEVANAHALLI,
BENGALURU-560 300.

...RESPONDENT

(BY SRI. AKASH B SHETTY, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH AND SET
ASIDE THE DEFECT MISCELLANEOUS ORDER NO.20053 OF
2025 DTD. 18.02.2025 PASSED BY CUSTOMS, EXCISE AND
SERVICE TAX APPELLATE TRIBUNAL, BANGALORE AT ANNEX-F
PASSED IN CUSTOMS APPEAL DIARY NO. 22061 OF 2024
AND TO ALLOW THE APPLICATION AND REMIT THE APPEAL
FOR HEARING ON MERITS IN THE INTEREST OF JUSTICE.

THIS PETITION, COMING ON FOR PRELIMINARY
HEARING, THIS DAY, ORDER WAS MADE THEREIN AS
UNDER:



CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

Heard Smt. Harshitha M., learned counsel and Sri. Abhishek S., learned counsel for Sri. Keerti Kumar, learned counsel appearing for the petitioner and Sri. Akash B. Shetty, learned counsel for the respondent.

2. Perused the entire writ petition papers.

3. The respondent issued Show Cause notice Nos.169/2022 dated 17.02.2022 and 55/2022 dated 23.09.2022 to the petitioner herein, calling upon the petitioner to show cause as to why goods stated therein shall not be confiscated under Section 111 of the Customs Act, 1962 (for brevity, 'the Act, 1962') and also why the penalty should not be imposed under provisions of the Act, 1962.

4. On filing of objection by the petitioner, Order-in-Original was passed by the Adjudicating Authority in respect of both the show cause notices i.e., SCN Nos.55/2022 and 169/2022. The petitioner being aggrieved by the Order-in-



original, filed an appeal before the Customs, Excise and Service Tax Appellate Tribunal (for brevity, 'CESTAT'). Insofar as Order-in-original in respect of the show cause notice bearing No.55/2022, there was delay in filing the appeal. As such, along with the appeal, the petitioner herein had filed an application for condonation of delay, explaining the reasons for delay in preferring the appeal.

5. The CESTAT dismissed the appeal only on the ground of inordinate delay of 324 days in preferring the appeal by refusing to condone the delay. Questioning the said order, the petitioner is before this Court in this writ petition.

6. Learned counsel for the petitioner submits that the Order-in-original passed on show cause notice bearing No.169/2022 on identical issues is pending consideration before CESTAT, whereas the challenge to the Order-in-original issued on identical issues in show cause notice bearing No.55/2022 is rejected by the CESTAT only on the ground of delay.

7. Learned counsel for the petitioner would submit that the petitioner had explained the cause for delay in preferring the appeal and the CESTAT failed to appreciate the



said cause in proper perspective. Learned counsel would submit that the CESTAT recorded the cause explained by the petitioner at paragraph No.2 of the order, however, failed to appreciate the same. Learned counsel would submit that the petitioner/AIR India SATS Airport Services Private Limited was in the process of disinvestment and was in the process of merger with TATA group. As such, though the order was received in the year 2023, the petitioner could file the appeal before the CESTAT on 29.07.2024. Learned counsel would submit that the delay in filing the appeal before CESTAT was neither deliberate nor intentional, but for the *bona-fide* reason stated in the affidavit accompanying the application for condonation of delay. Thus, it is prayed to condone the delay and remit the matter back to the CESTAT for consideration on merits along with the other pending appeal.

8. Learned counsel for the respondent would support the order passed by CESTAT and further submit that there is delay of 324 days in preferring the appeal which is not properly explained by the petitioner. Thus, he prays for dismissal of the writ petition.



9. Having heard the learned counsel for the parties and on perusal of the entire writ petition papers, we are of the opinion that the CESTAT was not justified in dismissing the appeal on the ground of delay without appreciating the cause shown by the petitioner herein.

10. The material on record would indicate that the respondent issued show cause notice Nos.169/2022 and 55/2022 alleging pilferage of imported jewellery and called upon the petitioner to show cause as to why action under Section 111 of the Act, 1962 should not be initiated and why penalty should not be imposed.

11. On filing of objection by the petitioner, the respondent passed Order-in-original in respect of both the show cause notices bearing Nos.169/2022 and 55/2022, imposing penalty for contravention of certain provisions of the Act, 1962. Aggrieved by the same, the petitioner filed two separate appeals before the CESTAT. The Order-in-original passed in pursuance of show cause notice No.169/2022 is pending consideration before CESTAT, whereas the appeal filed by the petitioner against the Order-in-original passed in pursuance to



show cause notice bearing No.55/2022 is dismissed under impugned order solely on the ground of delay of 324 days in preferring the appeal. Order-in-original in show cause notice bearing No.55/2022 was passed on 09.06.2023, whereas the appeal was filed before CESTAT on 29.07.2024. It is true that there was delay of 324 days in filing the appeal. However, the petitioner had explained the delay by stating that the disinvestment process had commenced in petitioner company- AIR India in January, 2020 and in the month of April, 2022. The request was made by TATA Group to merge AIR India with AIR Asia India and Vistara, which was approved on 14.06.2022. It is further stated that since the petitioner was in the process of merger, though the order was received in June, 2023, it could file appeal only in the month of July, 2024. The cause shown by the appellant is believable and sufficient to condone the delay. The delay of 324 days in the light above submission cannot be considered as *mala-fide* or deliberate or intentional delay.

12. Condonation of delay depends on the facts and circumstances of each case. Moreover, condonation of delay being discretion of the Court, exercise of such discretion shall



be exercise based on sufficient cause shown by the parties. The endeavour of the Court shall be towards substantial justice and not to dismiss the merited case on technicalities. The Courts shall be liberal in condoning the delay if there is no negligence nor *mala-fide* in the process of delayed approached to the Court. While considering sufficient cause, the Court's approach shall be pragmatic justice oriented. Having regard to the principles laid down by the Hon'ble Apex Court in the matter of condonation of delay in the facts and circumstances of the instant case, accepting the cause shown by the petitioner, we condone the delay of 324 days in filing the appeal before the CESTAT. Accordingly, the following:

ORDER

- i. The order dated 18.02.2025 in Defect/Miscellaneous order No.SO/MO/20053/2025-[CR] passed by the Customs, Excise and Service Tax Appellate Tribunal, Bengaluru, in Customs Appeal Diary No.22061/2024 is set aside by condoning the delay of 324 days in filing the said appeal.



ii. The matter is remitted back to CESTAT, Bengaluru for consideration of the appeal on its merits.

Accordingly, the writ petition is ***allowed***.

**SD/-
(S.G.PANDIT)
JUDGE**

**SD/-
(RAJESH RAI K)
JUDGE**

CR/List No.: 1 SI No.: 27