CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 40355 of 2021

(Arising out of Order-in-Appeal No. C.Cus. I No.105/2021 dated 26.03.2021 passed by Commissioner of Customs (Appeals-I), 60, Rajaji Salai, Custom House, Chennai 600 001.)

M/s. Nokia India Pvt. Ltd. **.... Appellant**
7th Floor, Building No. 9A,
DLF Cyber City,
Sector 25A, Gurugram,
Haryana 122 002.

VERSUS

The Principal Commissioner of Customs (Air Cargo) **... Respondent**
Chennai-VII,
New Custom House,
Air Cargo Complex, Chennai 600 027.

APPEARANCE :

Shri Karthik Sundaram, Advocate for the Appellant
Shri Sanjay Kakkar, Authorized Representative
for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No.41153/2026

DATE OF HEARING : 13.10.2026
DATE OF DECISION :30.10.2026

Per: Shri P. Dinesha

This Appeal is filed by M/s. Nokia India Pvt. Ltd. [Appellant herein] against the Order-in-Appeal No. 105/2021 dated 26.03.2021 passed by Commissioner of Customs (Appeals-I), Chennai.

2. The main issue is rejection of refund claim as upheld in the impugned order. Heard Shri Karthik Sundaram, Ld. Advocate for the Appellant, who submitted at the outset that the Commissioner (Appeals) has erred in rejecting the Appeal both on limitation as Appeal having been filed belatedly and also on merits, the First Appellate Authority did not afford reasonable opportunities to the Appellant to put forth its case on merits though he has recorded the grounds urged in the Grounds of Appeal before him including the crucial fact that all the original Bills of Entry were submitted by the Appellant and it was the Department which had misplaced the same. He would also take us through various documents / correspondences made with the Department during the first round of litigation, when an application for refund was filed and would thus submit that Department

having acknowledged the receipt of original documents like Bills of Entry, now to say that the Appellant did not file original Bills of Entry is far from truth and the Department cannot take advantage of its own lapses to hold against the Appellant. He would thus pray for allowing the Appeal.

3. *Per contra*, Shri Sanjay Kakkar, Ld. Departmental Representative supported the findings of the First Appellate Authority.

4. We have carefully considered the rival contentions and we have also perused various documents placed on record, a perusal of the impugned order reveals that the First Appellate Authority having reproduced most of the Grounds of Appeal urged, has not bothered to call for explanation at least on those grounds. However, we do not find it proper for the First Appellate Authority to have decided, without any sufficient reasons, that the Appeal was filed with a delay of 05 days, which was clearly condonable, but still proceeds to hold that the Appeal was time-barred and thus, dismissed the Appeal on the limitation issue. Having rejected, he thereafter proceeds

to examine the issue on merits as well and holds that the Original Authority had rejected the claim on the ground that the Appellant did not produce documents or other evidences in support of their claim. Having reproduced the Grounds of Appeal, he could have at least given an opportunity to the Appellant to justify their Grounds of Appeal if the matter was required to be decided on merits but, without giving opportunity and proceeding to decide the Appeal on merits is a serious violation of principles of natural justice which renders the impugned order unsustainable.

5. Further, we even find the assertion of the Ld. Advocate to be correct regarding limitation since the Lower Appellate Authority has calculated the limitation from the date of Order-in-Original and not from the date of service. In any case, as recorded at para-6 of the impugned order there was delay of 05 (five) days which is clearly within the condonable period [60 + 30 days] and hence, he should not have rejected the Appeal as barred by limitation. If there was any delay, then the least that was expected from him was to call for explanation either from the Appellant or from the office of the Original

Authority as to the date of service, in the interest of justice, which is not done.

6. We have perused the track consignment [filed at page 145 of Appeal memo] issued by the postal authorities which clearly demonstrates the actual date of receipt and reckoned from the date of service of the Order-in-Original, the first Appeal has been filed within the period prescribed under the statute and hence, there was no need for filing any application seeking condonation of delay, which was not there.

7. We therefore set aside the impugned order allowing the Appeal and remit the Appeal back to the file of Commissioner (Appeals) who shall pass a *de-novo* order on merits without going into the limitation and after hearing the Appellant. It goes without saying that the First Appellate Authority shall afford reasonable opportunities to the Appellant and also considering the fact that the Appellant had furnished documentary evidences in original with the concerned official which was misplaced by the Department itself and then take a view in accordance with law. All the contentions are left open.

Considering the fact that the issue pertains to the year 2007 and that the matte had even travelled upto the CESTAT once, we deem it appropriate to direct the First Appellate Authority to dispose of the Appeal within a period of 60 days from the date of receipt of our order by the concerned Commissionerate. Appellant shall cooperate with the First Appellate Authority without seeking unnecessary adjournments.

(Order pronounced in open court on 30.10.2026)

sd/-	sd/-
(VASA SESHAGIRI RAO)	**(P. DINESHA)**
Member (Technical)	Member (Judicial)

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