

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I
COD Application No. ST/COD/70463/2018 in
APPEAL No. ST/71204/2018-CU[DB]**

(Arising out of Order-in-Appeal No.232/ST/ALLD/2018 dated 10/05/2018 passed by Commissioner (Appeals), CGST & Central Excise, Allahabad)

M/s U. P. State Infrastructure

Development Corporation Ltd.

Appellant

Vs.

Commissioner (Appeals) CGST &

Central Excise, Allahabad

Respondent

Appearance:

Shri S. A. Khan (Consultant)

for Appellant

Shri Mohd. Altaf (Asstt. Commr.) AR

for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 11/12/2018

Date of Decision : 11/12/2018

FINAL ORDER NO. - **72836/2018**

Per: Archana Wadhwa

After hearing both the sides, we find that the Commissioner (Appeals) has rejected the appeal filed before him on the ground that there was a delay of 112 days in filing of appeal before him and he has no power to condone the delay.

2. It is seen that the appellant also filed Condonation Application before Tribunal praying for condoning the delay in filing the appeal before Commissioner (Appeals).

We observe that the said COD Application was not required inasmuch as delay for filing the appeal was before Commissioner (Appeals) and he has already refused to condone the same on the ground that he has no authority to condone such a huge delay.

3. As such the only issue before us is to adjudge as to whether the said order of Commissioner (Appeals) is correct or not. We find that the issue is no more *res integra* and stands settled by the Hon'ble Supreme Court decision in the case of Singh Enterprises Vs C.C.E Jamshedpur reported at 2008 (221) E.L.T. 163 (SC). It is well settled law that Commissioner (Appeals) has no power to condone the delay beyond the period as prescribed under the law.

4. In view of the above, we find that there is no infirmity in the impugned order. Accordingly the same is upheld and the appeal filed by the appellant is rejected. COD Application also gets disposed of as infructuous.

(Dictated & Pronounced in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Lks