IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

ST/COD/40141/2019 and ST/40392/2019

[arising out of Order-in-Appeal No.542/2016 (STA-I) , dated 01.09.2016 passed by the Commissioner of Service Tax (Appeals-I), Chennai]

M/s.NAVANEETHAM INDUSTRIES APPELLANT

Versus

COMMISSIONER OF GST & CENTRAL EXCISE, CHENNAI NORTH RESPONDENT

Appearance:

For the Appellant Shri N. Viswanathan, Adv.,
For the Respondent Shri B. Balamurugan, AC(AR)

CORAM:

Hon'be Smt. Sulekha Beevi C.S, Member (Judicial)
Hon'ble Shri P. Venkata Subba Rao, Member (Technical)

Date of hearing/decision **10-06-2019**

FINAL ORDER NO.40840/2019

Per Bench:

The above COD application has been filed by the appellant seeking condonation of delay of two years and 46 days in filing the appeal. The learned counsel Shri N. Viswanathan appeared and argued the matter. He submitted that there was delay in filing the appeal before the Commissioner (Appeals), for which the appeal was rejected by the Commissioner (Appeals). Thereafter, the appellant did not file any appeal before the Tribunal as he is uneducated and is not aware of the tax provisions and also the procedure to file appeals. He, therefore, pleaded that a lenient view may be taken.

2. Learned Authorised Representative for the Revenue Shri B. Balamurugan, AC (AR) opposes the early hearing application. He submitted that the Hon'ble Supreme Court in the case of *M/s. Singh Enterprises Vs Commissioner of Central Excise, Jamshedpur* reported in *2008 (221) E.L.T.163 (S.C.)* has held that the Commissioner (Appeals) cannot condone the appeal beyond the period prescribed in the statute.

3. Heard both sides.

4. The learned counsel has pleaded to condone the delay of two years and 46 days in filing the appeal. After hearing the submissions and perusal of records, we find that the Commissioner (Appeals) has rejected the appeal on limitation and not on merits. The appeal was filed before Commissioner (Appeals) with a delay of six days, which is beyond the condonable period. As per the decision relied upon by the learned Authorised Representative for the Revenue Shri B. Balamurugan, the issue is settled that the Commissioner (Appeals) cannot condone the delay beyond the period of 90 days including the condonable period of 30 days. Further, the appellant has not put forward sufficient cause for condonation of each days delay. There is a huge delay. The COD

application is, therefore, dismissed. Consequently, the appeal is also dismissed.

(Dictated and pronounced in open court)

(P. VENKATA SUBBA RAO) MEMBER (TECHNICAL)	(SULEKHA BEEVI C.S) MEMBER (JUDICIAL

ksr
17-01-2019

	DRAFT			**Remarks**
	I	**II**	**III**	
Date of dictation	**10.06.2019**			
Draft Order - Date of typing				
Fair Order Typing	**10.06.2019**			
Date of number and date of dispatch	**.06.2019**			