

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**

REGIONAL BENCH – COURT NO.1

S. Tax Appeal No. 75966 of 2019

Arising out of Order-in-Appeal No.253/SLG-ST/2018-19 dated 04.12.2018 passed by Commissioner of CGST & CX (Appeals), Siliguri.

M/s. Dulal Chandra Mandal

C/o Naresh Mandal, Paschim Duramari,
P. O. Purbadurmani, Near Anchal Office,
PS Banarhat, Jalpaiguri,
West Bengal, 735233

Appellant (s)

VERSUS

Commr. of CGST & CX, Siliguri

C. R. Building, Harendra Mukherjee Road,
Hakimpara, Siliguri-734001

Respondent (s)

APPEARANCE :

None for the Appellant

Shri D. Halder, AC (AR) for the Respondent

CORAM:

**HON'BLE MR. P. K. CHOUDHARY, MEMBER (JUDICIAL)
ORDER NO.FO/75788/2019**

Date of Hearing/Date of Decision : 17/07/2019

PER P.K.CHOUDHARY :

None appeared on behalf of the appellants.

2. Heard the Ld. DR and perused the appeal records.

3. I find that the Lower Appellate Authority has not decided the appeal on merits but rejected the same as time barred. The Order-in-Original dt. 12/05/2017 was received by the appellant assessee on 30/06/2017 and accordingly they were required to file the appeal within two months i.e. by 30/08/2017. The appeal was filed on 16/10/2017 i.e. after delay of 46 days. I find that the appellant had filed the appeal before the Lower Appellate Authority beyond the statutory period of 60 days and also beyond the condonable period of 30 days and hence, the Lower Appellate Authority could not condone the delay and rejected the appeal as barred by limitation.

S. Tax Appeal No. 75966 of 2019

4. In view of the judgment of the Hon'ble Supreme Court in the case of Singh Enterprises Vs. Commr. of C. Ex., Jamshedpur reported in 2008 (221) E. L. T. 163 (S. C.), the delay in filing of the appeal before the Lower Appellate Authority beyond the condonable period, cannot be condoned by the Tribunal either, and accordingly, the appeal filed by the appellant is dismissed as hopelessly barred by limitation.

(Dictated and pronounced in the open Court)

Sd/-
(P. K. Choudhary)
Member (Judicial)

Pooja