

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.2

Service Tax Miscellaneous Application No.75173 of 2018 (COD)
(On behalf of Appellant)

And

Service Tax Appeal No.75260 of 2018

(Arising out of Order-in-Appeal No.03/ST/RKL-COM/2017 dated 31.01.2017 passed by Commissioner(Appeals), Central Excise, Customs & Service Tax, Bhubaneswar.)

M/s. Nibedita Enterprises

(Shop No.3, Old Market, Sector-77,
Fertilizer Township, Rourkela-769007.)

...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Rourkela

.....Respondent

(Nayabazar, Rourkela-769010 (Orissa).)

APPEARANCE

NONE for the Appellant (s)

Shri A.K.Biswas, Authorized Representative for the Respondent (s)

CORAM: HON'BLE SHRI P.K.CHOUDHARY, MEMBER(JUDICIAL)

MISCELLANEOUS ORDER NO. 75077/2020

FINAL ORDER NO. 75100/2020

DATE OF HEARING : 17 January 2020

DATE OF DECISION : 17 January 2020

P.K.CHOUDHARY :

The defects as pointed in the Defect Memo have been complied with by the appellants and hence there is no defects pending as pointed out in the Defect Memo.

2. The Miscellaneous Application has been filed for condonation of delay in filing the appeal before the Tribunal.

3. In view of the reasons as detailed in the Miscellaneous Application the delay in filing the appeal before the Tribunal is condoned. Miscellaneous Application (COD) is allowed.

4. I find that the lower appellate authority has not disposed of the appeal on merits, but has rejected the same as hopelessly barred by limitation of time. I find that the appeal before the lower appellate authority was filed beyond the condonable period of 30(thirty) days and in view of the decision of Hon'ble Supreme Court in the case of Singh Enterprises Vs. Commissioner of C.Ex., Jamshedpur [2008 (221) E.L.T. 163 (S.C.)], the delay beyond the condonable period cannot be considered by the Tribunal and accordingly the appeal is dismissed.

(Dictated and pronounced in the open Court.)

SD/
(P.K.CHOUDHARY)
MEMBER (JUDICIAL)

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