

**IN THE CUSTOMS, EXCISE AND SERVICE TAX  
APPELLATE TRIBUNAL  
WEST ZONAL BENCH AT MUMBAI**

**APPEAL NO: C/761/2011**

[Arising out of Order-in-Appeal No: 170/Mumbai-III/2011 dated 22/09/2011 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

Ipca Laboratories Ltd

*...Appellant*

*versus*

Commissioner of Customs (ACC & Import)  
Mumbai – III

*...Respondent*

Appearance:

Shri S P Joshi, Consultant for appellant

Ms Trupti Chauhan, Assistant Commissioner (AR) for respondent

**CORAM:**

**Hon'ble Shri S K Mohanty, Member (Judicial)**

**Hon'ble Shri P Anjani Kumar, Member (Technical)**

**Date of hearing:**

**21/06/2018**

**Date of decision:**

**21/06/2018**

**ORDER NO: A/86778 / 2018**

Per: S K Mohanty

This appeal is directed against the impugned order dated 22/09/2011 passed by Commissioner of Customs (Appeals), Mumbai – III. The appeal filed by appellant before the Learned Commissioner (Appeals) was dismissed on the ground that same was preferred beyond 160 days from the date of filing of the bill of entry.

2. Heard both the sides and perused the records.
3. On perusal of the copy of the bill of entry and the TR-6 challan available in the case records, we find that though the bill of entry was filed on 05/11/2009, but the same was assessed on 20/02/2010 and thereafter, the appeal was filed by the appellant before the office of the Commissioner (Appeals) on 15/04/2010. From the documents available in the case records, it transpires that the appeal was preferred within the stipulated time-frame under Section 128 of the Customs Act, 1962. Thus, there was no delay in filing the appeal before the office of the Commissioner (Appeals).
4. Since the Learned Commissioner (Appeals) has dismissed the appeal on the ground of limitation, without discussing the merits of the case, we are of the view that the matter should go back to Commissioner (Appeals) for deciding the appeal on merits based on the available records.
5. Therefore, after setting aside the impugned order, we remand the matter to the Commissioner (Appeals) for deciding the appeal on merits.

*(Dictated and Pronounced in Court)*

**(P Anjani Kumar)**  
**Member (Technical)**

*\*/as2106*

**(S K Mohanty)**  
**Member (Judicial)**