IN THE CUSTOMS, EXCISE AND SERVECE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI
COURT NO. I

APPEAL NO. E/86079/2018

(Arising out of Order-in-Appeal No. MKK/311/RGD APP/2017 dated 07.12.2017 passed by the Commissioner of Central Excise & Service Tax (Appeals), Raigarh.)

M/s Henkel Adhesive Technologies India P. Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Belapur **Respondent**

Appearance:

Shri S. Narayanan, Advocate for Appellant
Shri S.J. Sahu, Assistant Commissioner (AR) for Respondent

CORAM:

HON'BLE SHRI S K MOHANTY, MEMBER (JUDICIAL)

Date of Hearing: 11.06.2018
Date of Decision: 11.06.2018

ORDER NO. **A/86730 / 2018**

Per: S K Mohanty

This appeal is directed against the impugned order dated 07.12.2017 passed by the Commissioner of Central Excise & Service Tax (Appeals), Raigarh, in dismissing the appeal of the appellant on the ground of limitation.

2. Heard both sides and perused the records.

3. The learned Commissioner (Appeals) has recorded the findings that the adjudication order was received by the appellant on 28.11.2016 and thereafter, the appeal was filed before him on 10.03.2017, which is beyond the condonable period provided under the statute. Accordingly, it has been held he is not empowered to condone the delay in late of filing appeal. To support such stand, the learned Commissioner (Appeals) has relied upon the judgment of Hon'ble Supreme Court in the case of *Singh Enterprises Vs. CCE,* reported in *2008 (221) ELT 163 (SC).*

4. It is an admitted fact that the appellant had preferred the appeal before the office of Commissioner (Appeals) beyond the period of 41 days from the date of expiry of the limitation period of 60 days from the date of receipt of the adjudication order. As per the judgment of Hon'ble Supreme Court in the case of *Singh Enterprises* (supra), the Commissioner (Appeals) is not statutorily empowered to condone the delay in filing the appeal beyond the prescribed time limit. Accordingly, the impugned order rejecting the appeal of the appellant on the ground of limitation cannot be interfered with by the Tribunal at this juncture.

5. Therefore, the appeal filed by the appellant is dismissed.

(Dictated and pronounced in open Court)

(S K Mohanty)
Member (Judicial)

Prasad