

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

**Application No. ST/Misc/86489,86490,86471,86491/2018 IN
Appeal No. ST/86840,86846,86847,86849/2018**

(Arising out of Order-in-Appeal No.V2(A)STII/961/2016-17 dt.
21.02.2018 passed by the Commissioner of CGST & CX, Belapur)

M/s. Twist Electronics : Appellant

VS

Commissioner of CGST & CX., Belapur : Respondent

Appearance

Shri A.N. Sharma, Consultant for Appellant
Shri Dilip Shinde, Asstt. Commr. (A.R) for Revenue

CORAM:

**Hon'ble Dr. D.M. Misra, Member (Judicial)
Hon'ble Mr. C.J. Mathew, Member (Technical)**

**Date of hearing : 13/12/2018
Date of decision : 13/12/2018**

ORDER NO. A/88173-88176/2018

Per : Dr. D.M. Misra

Heard both sides.

2. These miscellaneous applications are filed by the Revenue seeking change of Cause Title of the Respondent. However, after hearing both sides for some time, we found that the appeal itself could be disposed off. Accordingly, with the consent of both sides the appeal is taken up for disposal.

3. In the process of advancing their argument, Ld. AR for the Revenue submits that the Ld. Commissioner (Appeals) has dismissed the appeal filed by the assessee-appellant on the ground that there was delay of 360 days in filing the appeal before the Ld. Commissioner (Appeals). He submits that the Ld. Commissioner (A) is vested with power to condone the delay by three months in addition to the statutory limit of three months. Hence, the appeal has been rightly dismissed by the Ld. Commissioner (Appeals). He submits that the Hon'ble Supreme Court decision in the case of *Singh Enterprises Vs. Commissioner of C. Ex., Jamshedpur* 2008 (221) ELT 163 (S.C.) held that beyond the statutory period prescribed, the delay cannot be condoned, as such power is not vested under the statute.

3. We find force in the contention of the Ld. AR for the Revenue. On going through the impugned order, we find that the Ld. Commissioner (Appeals) dismissed the appeal as he is not vested with the power to condone the delay beyond three months in addition to the statutory period of three months in filing the appeal before him. Therefore, following the ratio of *Singh Enterprises* case (supra), we do not find merit in the appeal, consequently the same is dismissed. MA disposed of.

(Dictated and pronounced in court)

(C.J. Mathew)
Member (Technical)

(Dr. D.M. Misra)
Member (Judicial)

SM.