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

Application No. ST/COD/86749/18 in Appeal No. ST/89025/18

(Arising out of Order-in-Appeal No. NGP/EXCUS/000/100/078/14-15 dated 24.7.2014 passed by the Commissioner of Central Excise & Service Tax (Appeals), Nagpur).

M/s Techmen Engineering Works	Appellant

Vs.

Commissioner of CGST & Central Excise, Nagpur	Respondent

Appearance:

Shri Bijumne Thanka, Proprietor	for Appellant
Shri O.M. Shivdikar, AC (AR)	for Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. S. SRIVASTAVA, MEMBER (TECHNICAL)

Date of Hearing: 08.01.2019

Date of Decision: 08.01.2019

ORDER NO. **A/85073 / 2019**

Per: Dr. D.M. Misra

Heard both sides.

2. This is an application filed seeking condonation of delay of 1384 days. Explaining the delay, the Authorized Representative has submitted that even though the order was received by their employee in 2014, however, it was not handed over to the

appellant till 2018. The due date for filing the appeal expired in July, 2018. The present appeal has been filed after receiving the orders from the concerned person.

3. Learned AR for the Revenue submits that the reason explained by the applicant is not sufficient warranting condonation of inordinate delay of 1384 days in filing the appeal. In support, he has referred to the judgment of the Hon'ble Supreme Court in the case of *Office of the Chief Post Master General Vs. Living Media India Ltd. – 2012 (277) ELT 289 (SC).* Also he submits that there was an admitted delay of more than three months in filing the appeal before the learned Commissioner (Appeals), consequently their appeal was dismissed by the learned Commissioner (Appeals) also on the ground of delay. It is his contention that the learned Commissioner (Appeals) is not vested with the power to condone delay beyond one month in addition to the statutory limit of two months prescribed under Section 85 (3A) of the Finance Act, 1994, in view of the principle of law laid down in *Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur – 2008 (221) ELT 163 (SC).*

4. We have carefully considered the submissions advanced and perused the records. We find that the reason and explanation of inordinate delay of 1384 days furnished by the appellant does not seem to be sufficient warranting condonation of the said delay. In the result, the miscellaneous appeal seeking the condonation of delay is dismissed.

5. Consequently, the appeal is also dismissed.

(Dictated and pronounced in Court)

(S. Srivastava)	**(Dr. D.M. Misra)**
Member (Technical)	**Member (Judicial)**

Sinha