IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2017

CORAM:

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.35180,35184 & 25865 of 2004
and
W.M.P.Nos.42413, & 42409 & 31433 of 2004

The Branch Manager,
M/s. Tamil Nadu Industrial Investment
Corporation Limited,
Arcot Woodlands (Annexe) Building,
3rd Floor, No.1, Bharathi Road,
Cuddalore - 1.
having registered office at
New No.692, Anna Salai,
Nandanam, Chennai - 600 035. .. Petitioner in all three W.Ps

Vs.

The Office of the Commissioner of
Central Excise (Appeals),
Chennai-34. .. Respondent in all three W.Ps

Common Prayer: Writ petition filed under Article 226 of the Constitution of India praying for a issuance of Writ of Certiorarified Mandamus calling for the records in respect of the Order passed in Appeal Nos.81 of 2004, 80 of 2004 dated 09.09.2004 and 62 of 2004 dated 30.07.2004 respectively, on the file of the respondent and quash the same and condone the delay in filing the Appeal under Sec.35 of the Central Excise Act 1944 and direct the respondent to hear the appeal of the petitioner filed during September 2004, September 2004 and June 2004 respectively on merits.

For Petitioner : Mr.Jayesh Dolia
for M/s.Aiyar & Dolia and
V.Kalyanaraman.

For Respondent : Mr.A.P.Srinivas,
Senior Panel Counsel

COMMON ORDER

The petitioner is the Tamil Nadu Industrial Investment Corporation Limited, represented by its Branch Manager and they have challenged the order passed by the Commissioner of Central Excise (Appeals), rejecting the appeal on the ground that there is no power for the Commissioner (Appeals) to condone the delay beyond the condonable period as stipulated in the Central Excise Act.

2. Admittedly, the appeal was filed after a period of 311 days from the date on which the order in original was received by the petitioner. The Central Excise Act provides 60 days time as limitation period, for filing an appeal. Beyond the period of 60 days the Commissioner (Appeals) is empowered to condone the delay upto a maximum period of 30 days, beyond which, there is no power. The provision of limitation Act cannot be read into the provisions of the Central Excise Act. Therefore, there is no error in the impugned order. Therefore the writ petitions are closed. No Costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

sli/kak

To

The Office of the Commissioner of
Central Excise (Appeals),
Chennai-34.

+1cc to M/s.Aiyar & Dolia, Advocate, S.R.No.53891, 53892, 53893
+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.53618, 53619

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AR(J)
CS/16/08/17