IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.35126 of 2003
&
W.P.M.P.No.42702 of 2003

M/s.STP Limited,
No.55 & 56 A & B, Developed Plots,
Industrial Estate, Ambattur,
Chennai - 600 098. ... Petitioner

Vs.

1. The Commissioner of Central Excise (Appeals),
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

2. The Assistant Commissioner of Central Excise,
Chennai-IV Division, Commissionerate-II,
TNSCB Shopping Complex, Thirumangalam,
Chennai - 600 040. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the case in Order-In-Appeal No.81//2003 (M-II) dated 19.08.2003, passed by the first respondent herein and to quash the same and consequently, prayed for condoning the delay in filing the appeal before the first respondent and direct the first respondent to dispose of the appeal on merits.

For Petitioner : T.Ramesh

For Respondents : Mr.S.Rajasekar
Senior Panel Counsel

WEB COPY

O R D E R

Heard Mr.T.Ramesh, learned counsel for the petitioner and Mr.S.Rajasekar, learned Senior Panel Counsel for the respondents.

2.The petitioner has challenged an order passed by the Commissioner of Central Excise (Appeals) dated 19.08.2003. The appeal had been rejected on the ground that it has been filed

https://hcservices.ecourts.gov.in/hcservices/

beyond the condonable period as it was filed after three years from the receipt of the Order-In-Original dated 29.04.2010.

3.The petitioner's contention is that the delay in filing the appeal is not willful or wanton but on account of bona fide belief of the orders passed by the Appellate Authority. That apart, the petitioner has referred to the merits of the order passed by the original authority. Further, these issues cannot be gone into the present writ petition and what is required to be seen is as to whether the order passed by the Commissioner (Appeals) is correct or not. Admittedly, an appeal filed after a period of three years cannot be entertained as it was beyond the condonable period and therefore, there is no discretion or jurisdiction vested with the Commissioner (Appeals) to condone the delay in respect of these appeals presented after nine years and hence, no intereference is called for.

4.Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Commissioner of Central Excise (Appeals),
   No.26/1, Mahatma Gandhi Road,
   Nungambakkam, Chennai - 600 034.

2. The Assistant Commissioner of Central Excise,
   Chennai-IV Division, Commissionerate-II,
   TNSCB Shopping Complex, Thirumangalam,
   Chennai - 600 040.

WEB COPY

+1cc to Mr.S.Rajasekar, Advocate, S.R.No.50745

W.P.No.35126 of 2003

CS IV
CA(03/08/2017)

https://hcservices.ecourts.gov.in/hcservices/