CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT No. I

Customs Appeal Nos. 40304 to 40316 of 2019

(Arising out of Order-in-Appeal C.Cus.II Nos. 779-791/2018 dated 19.12.2018 passed by the Commissioner of Customs (Appeals-II), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Sabari Infra Private Limited **...Appellant**
No. 5, Gee Gee Emarald Building,
18/31, Valluvar Kottam Road,
Nungambakkam,
Chennai – 600 034.

Versus

Commissioner of Customs **...Respondent**
Chennai II Commissionerate,
No. 60, Rajaji Salai,
Custom House,
Chennai – 600 001.

APPEARANCE:

For the Appellant : Mr. N. Viswanathan, Advocate
For the Respondent : Ms. Rajini Menon, Authorised Representative

CORAM:
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER Nos. 40684-40696 / 2026

DATE OF HEARING : 27.01.2026
DATE OF DECISION : 02.06.2026

Per Mr. VASA SESHAGIRI RAO

The present batch of 13 appeals filed by M/s. Sabari Infra Pvt. Ltd. (hereinafter referred to as 'the Appellant') is directed against the respective Orders-in-Appeal Nos. 779 to 791/2018 dated 19.12.2018 ('Impugned Orders' for short) passed by the Commissioner (Appeals), whereby the appeals filed against the respective Orders-in-Original passed by the adjudicating authority in respect of import of used and worn clothing have been rejected on the ground of limitation, holding that the appeals were filed beyond the prescribed period of 60 days and the condonable period of 30 days, without going into the merits of the case.

2. Aggrieved the appellant has filed the present appeals before this Tribunal on the grounds of limitation as well as merits. The details of the appeals filed are tabulated below: -

Name of Importer / Appellant	Appeal Numbers	No. of Appeals	Order-in-Appeal No. & Date (Impugned Orders)
M/s Sabari Infra Pvt. Ltd.	C/40304/2019 to C/40316/2019	13	OIA 779 to 791/2018 dt 19.12.2018.

3. The Ld. Advocate Mr. N. Viswanathan appeared on behalf of the Appellant and advanced detailed submissions in support of the Appeal and the Ld. Authorized Representative Ms. Rajini Menon appeared for the Revenue.

4. The Ld. Advocate Shri N. Viswanathan, for the Appellants, made detailed submissions which are summarised as follows: -

The Ld. counsel for the appellants submitted that the rejection of the appeals on limitation is wholly unsustainable, as the Commissioner (Appeals) had taken the appeals on record, granted personal hearing and accepted additional written submissions, but thereafter rejected the appeals as time-barred without properly examining the facts and law relating to limitation. It was contended that such rejection without determining the date of communication and without considering the appellant's submissions has resulted in miscarriage of justice. On merits, it was briefly submitted that the enhancement of value is arbitrary and unsupported by evidence, as the declared transaction value is backed by invoices and no material has been produced to justify rejection under Rule 12; further, the goods being mixed lots of used clothing cannot be subjected to uniform valuation. It was also submitted that there is no misdeclaration and that confiscation, fine and penalty are not justified and are excessive.

5. *Per Contra*, the Ld. Authorized Representative appearing for the department supported the findings of the adjudicating authority and the Commissioner (Appeals).

6. Upon consideration of the rival submissions made by the appellants and the Revenue and on perusal of the records, the short issue before us is whether the rejection of appeals as time-barred, without determining the

date of communication of the Orders-in-Original, is legally sustainable and whether the matter requires to be remanded to the Commissioner (Appeals) for reconsideration of limitation and decision on merits.

7. We now proceed to examine the above issue.

8. The issue for consideration is whether the Commissioner (Appeals) was justified in rejecting the appeals as time-barred, or whether they were filed within the permissible period of sixty days plus a condonable thirty days (total ninety days) under Section 128 of the Customs Act, 1962.

9. On perusal of the impugned Orders-in-Appeal, it is observed that in respect of thirteen Orders-in-Original relating to M/s Sabari Infra Pvt. Ltd. The lower appellate authority has uniformly recorded a delay of ninety-one days and rejected all appeals as time-barred. However, the impugned orders do not contain any discussion or evidence regarding the actual date of communication of the Orders-in-Original, which is the essential starting point for computation of limitation. In the absence of such a crucial date, the conclusion regarding delay is clearly speculative and unsustainable in law. Further, there is no methodology or

working provided for arriving at the alleged delay, and the uniform application of a ninety-one-day delay across all cases reflects a mechanical and non-reasoned approach.

10. It is also noted that, as specifically contended by the appellants in the grounds of appeal, the appeals were filed within the statutory period of 60 days and the further condonable period of 30 days prescribed under Section 128 of the Customs Act. In the case of M/s Sabari Infra Pvt. Ltd., it is their contention that the Order-in-Original was received on 18.06.2018, the 60-day period expired on 17.08.2018 and the condonable period expired on 16.09.2018; since 16.09.2018 fell on a Sunday, the appeals were filed on the next working day, i.e. 17.09.2018. However, this contention and the computation of limitation have not been examined by the lower appellate authority. The failure to ascertain the date of communication and consider the appellant's submissions renders the impugned orders non-speaking and contrary to the principles of natural justice.

11. In view of the above, we find that the rejection of the appeals as time-barred cannot be sustained. At the same time, in the absence of complete records placed before us to verify the exact date of communication and the computation of limitation, we are unable to conclusively

determine the correctness of the appellant's claim. Accordingly, the impugned Orders-in-Appeal are set aside and the matter is remanded to the Commissioner (Appeals) to ascertain the actual date of communication, recompute the limitation period in accordance with law, and consider the applicability of the condonable period. In the event the delay is found to be within condonable limits, the appeals shall be admitted and decided on merits after granting reasonable opportunity of hearing to the appellants. Ordered accordingly.

12. The appeals are thus allowed by way of remand on the above terms.

(Order pronounced in open court on 02.06.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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