CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Customs Appeal Nos. 40300 to 40302 of 2019

(Arising out of Order-in-Appeal C.Cus.II No. 792-794/2018 dated 19.12.2018 passed by the Commissioner of Customs (Appeals-II), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Shri Sai Shyam Associates **...Appellant**
No. 3, Bye Pass Road,
Gummudipoondi – 601 201.

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. 40681-40683 / 2026

DATE OF HEARING : 27.01.2026
DATE OF DECISION : 02.06.2026

Per Mr. VASA SESHAGIRI RAO

The present 3 appeals filed by M/s. Shri Sai Shyam Associates (hereinafter referred to as 'the Appellant') are directed against the respective Orders-in-Appeal Nos. 792 to 794/2018 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 Sri Sai Shyam Associates	C/40300/2019, C/40301/2019, C/40302/2019	3	OIA No. 792 to 794/2018 dated 19.12.2018

3. The Ld. Advocate Mr. 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 summarized as follows: -

The Ld. counsel for the appellants submitted that the rejection of the appeals on limitation is wholly unsustainable, as the Commissioner (Appeals), having taken the appeals on record, granted personal hearing and accepted additional written submissions, proceeded to reject them as time-barred without properly determining the date of communication or examining the computation of limitation. It was contended that such rejection, without considering the appellant's specific submissions regarding filing within the condonable period, has resulted in miscarriage of justice. On merits, it was briefly submitted that the enhancement of value is unsupported by evidence, the goods were correctly declared, and the confiscation, fine and penalty are unjustified and excessive.

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

6. 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.

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 the appeals were filed within the statutory period prescribed under Section 128 of the Customs Act, 1962, namely sixty days from the date of communication of the order, extendable by a further condonable period of thirty days, making a total of ninety days.

9. On perusal of the impugned Orders-in-Appeal, it is observed that in respect of 3 Orders-in-Original relating to M/s. Shri Sai Shyam Associates. 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 contended by the appellant in the grounds of appeal, the appeals were not filed within the statutory period of 60 days but within the further condonable period of 30 days under Section 128 of the Customs Act. In these appeals, it is their contention that the Order-in-Original was received by the appellant only on 15.06.2018 and so, the limitation period must have expired only on 13.09.2018, and since the said date was a public holiday (Ganesh Chaturthi), the appeals were filed in time on the next working day i.e. 14.09.2018, in terms of Section 9 of the General Clauses Act. 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 the law, and consider the applicability of the condonable period. In the event the delay is found to be within condonable limit, the appeals shall be admitted and decided on merits after granting a reasonable opportunity of fair 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/-	Sd/-
(AJAYAN T.V.)	**(VASA SESHAGIRI RAO)**
MEMBER (JUDICIAL)	MEMBER (TECHNICAL)

MK