
(2023) 04 CESTAT CK 0057

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Customs Appeal No. 10443 Of 2013, Excise Appeal No. 10442 Of 2013

Asif Chashmawala

APPELLANT

Vs

C.C. E. & S.T.- Surat-I

RESPONDENT

Date of Decision : 26-04-2023

Acts Referred:

Citation : (2023) 04 CESTAT CK 0057

Hon'ble Judges : Ramesh Nair, Member (J);Raju, Member (T)

Bench : Division Bench

Advocate : R.K. Agarwal

Final Decision : Allowed

Judgement

Raju, Member (T)

1. These appeals have been filed by Asif Chashmawala. No-one appeared for the appellant in the hearing, however written submissions were given by the advocate of the appellant.

2. In the written submissions, it has been claimed that the main noticee is M/s Raju Fabrics against whom demand of Customs duty as well as Excise duty has been made. Order of confiscation of goods has also been made against the said M/s Raju Fabrics. It has also been stated in the said letter that the allegations against the appellants are appearing only in para 26 and 42 of the impugned order and there is no other evidence or allegation against the appellant.

2.1 It has also been stated in the said letter that the appellant have not received the Show Cause Notice or it was lost or misplaced and therefore, they could not file any reply to the show cause notice. It has also been stated that they have not received the letter for personal hearing and therefore, they have not attended the personal hearing. As a result, there was a gross violation of principles of natural justice as the decision was passed without granting them opportunity to defend themselves.

3. Learned Authorized Representative relied on the impugned order.
4. We find that no show cause notice was served to the appellant or they had probably lost or misplaced it and therefore, no reply was filed. They could not appear for the personal hearings as they had not received the letter of personal hearing. This fact is also clear from the impugned order where it is apparent that no reply of the appellant is on record and the record of personal hearing also does not also show presence of appellant.
5. In this background, it is apparent that there was a violation of principles of natural justice.
6. In view of above, we set aside the impugned order in respect of this appellant and remand the matter back to the original adjudicating authority. The original adjudicating authority shall provide opportunity of personal hearing. The order will be passed after following the principles of natural justice preferably within a period of three months from the date of receipt of this order. The appeals are allowed by way of remand.