(2023) 08 CESTAT CK 0045

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Excise Appeal No.522 Of 2012

M/S. Bharat Industrial Works — APPELLANT

Vs

Commissioner Of Central Excise, Jamshedpur — RESPONDENT

Date of Decision : 22-08-2023

Acts Referred:

Citation : (2023) 08 CESTAT CK 0045

Hon'ble Judges : Ashok Jindal, Member(J);K. Anpazhakan, Member(T)

Bench : Division Bench

Advocate : Anil Kumar Dugar, K.Chowdhury

Judgement

Ashok Jindal, Member(J)

1. Heard the parties and perused the records.

2. We find that the Ld.Commissioner(Appeals) gave four opportunities to the appellant to appear before him. But the appellant could not avail the opportunity of hearing. Thereafter, the Ld.Commissioner(Appeals) passed ex parte order on merits, but without considering the case laws relied upon by the appellant and the arguments taken by them in their appeal papers.

3. Today, when the matter was called, the Ld.Counsel for the appellant submits that one of the partners of the appellant has expired during the period and that was the reason they could not avail the opportunity of being heard given by the Ld.Commissioner(Appeals) and while passing the order on merits, the Ld.Commissioner(Appeals) has not considered the grounds of appeal as well as the case laws relied upon by them. In that circumstances, the impugned order is to be set aside.

4. On going through the records placed before us, we find that it would be in the interest of justice to give a fresh chance to the appellant to be heard on merit by the Ld.Commissioner(Appeals) in the light of the ground taken by them before the Ld.Commissioner(Appeals) and the case laws relied upon by them.

5. Therefore, after setting aside the impugned order, we remand the matter back to the Ld.Commissioner(Appeals) to decide the issue afresh after giving an opportunity to the appellant to be heard on merits.

6. It is pertinent to mention here that on receipt of the order, the appellant shall approach to the Ld.Commissioner(Appeals) within 10(ten) days and the Ld.Commissioner(Appeals) shall fix a date of hearing and after that within two months, the Ld.Commissioner(Appeals) shall pass an order in accordance with law on merits.

Appeal is disposed of by way of remand.

