(2015) 10 CESTAT CK 0013

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Service Tax Stay Application No. 60847 Of 2013, Service Tax Appeal No. 60048 Of 2013

M/s. National Garage — APPELLANT

Vs

C.C.E. And S.T. Raipur — RESPONDENT

Date of Decision : 19-10-2015

Acts Referred:

Citation : (2015) 10 CESTAT CK 0013

Hon'ble Judges : Ashok Jindal, J;R. K. Singh, Technical Member

Bench : Division Bench

Advocate : B.B. Sharma

Final Decision : Allowed

Judgement

1. The applicant is in appeal along with application for stay.

2. Despite notice none appeared on behalf of the appellant nor any request for adjournment has been received. Therefore, matter is taken up for

consideration.

3. On perusal of the impugned order we find that a demand of service tax of Rs.80,113/- has been confirmed against the appellant treating the

appellant is an agent of an authorized dealer. In fact, appellant is an authorized dealer of M/s. Tata Motors Ltd.

4. As appellant remained unrepresented before the lower authorities, therefore, impugned order has been passed. But, it is a fact on record that the

agreement which is in question was placed before the Ld. Commissioner (A) for his examination, but the Ld. Commissioner (A) has not considered

the said agreement but passed the order holding that as appellant remained unrepresented before the Adjudicating authority. Therefore, grounds taken at appellant's stage are not considerable. On examining the records placed before us we find that Ld. Commissioner (A) was required to pass order

on merits. After considering the contents of the agreement between the appellant and M/s. Tata Motors Ltd. which Ld. Commissioner has failed to do

so. We also take note of that before the adjudicating authority these facts were not placed by the appellant. In these circumstances, it would be in the

interest of the justice to consign the matter to the adjudicating authority to decide the issue on its own merits after considering the contents of the

agreement placed before the Ld. Commissioner (A) by the appellant.

5. In these circumstances, we set aside the impugned order and remand the matter back to the adjudicating authority to pass an appropriate order on

the merits of the case after taking note of the agreement between the appellant and M/s. Tata Motors Ltd. Stay applications are also disposed of in

the above terms.

(Dictated and pronounced in the open court)