

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
WEST ZONAL BENCH AT AHMEDABAD**

REGIONAL BENCH – COURT NO. 03

**Excise Appeal No. 125 of 2010**

[Arising out of OIO-05/MP/VAPI/2009 passed by Commissioner of Central Excise, Customs and Service Tax-VAPI]

**M/s. Explosionproof Electrical Control**

**.....Appellant**

Plot No. 12, Laxmi Ind. Estate, Nr Fire Brigade,  
Po-Pipalia, Silvassa  
Dadra & Nagar Haveli

*VERSUS*

**C.C.E. & S.T.-Vapi**

**.....Respondent**

4th Floor...Adharsh Dham Building,  
Opp. Town Police Station, Vapi-Daman Road, Vapi  
Vapi, Gujarat-396191

**WITH**

- i. Excise Appeal No. 126 of 2010 ( Diplesh Chandrakant Pathak)**
- ii. Excise Appeal No. 127 of 2010 (Ajit P Patel)**
- iii. Excise Appeal No. 128 of 2010 ( Ashok B Patel)**
- iv. Excise Appeal No. 1160 of 2011 (Explosionproof Electrical Control)**
- v. Excise Appeal No. 1161 of 2011 (Ajit P Patel)**
- vi. Excise Appeal No. 1162 of 2011 ( Ashok B Patel)**
- vii. Excise Appeal No. 1163 of 2011 (Mahendra Jethabhai Patel)**
- viii. Excise Appeal No. 196 of 2011 (Explosionproof Electrical Control)**

[Arising out of OIO-05/MP/VAPI/2009 passed by Commissioner of Central Excise, Customs and Service Tax-VAPI]

[Arising out of OIA-SA/54-57/VAPI/2011 passed by Commissioner of Central Excise, Customs and Service Tax-VAPI]

[Arising out of OIA-SKSS/224-227/DMN/VAPI-I/2010-11 passed by Commissioner of Central Excise, Customs and Service Tax-DAMAN]

**APPEARANCE:**

Sh. R. Subramanya, Advocate for the Appellant

Sh. K.J. Kinariwala, Authorized Representative for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR  
HON'BLE MEMBER (TECHNICAL), MR. RAJU**

**FINAL ORDER NO.A/ 10934-10942 /2019**

DATE OF HEARING: 16.05.2019

DATE OF DECISION: 16.05.2019

**PER: RAMESH NAIR**

The issue involved is of clandestine removal of excisable goods.

2. Sh. R. Subramanya, Ld. Counsel appearing on behalf of the appellant at the outset submits that the entire demand is raised on certain records which were withdrawn and relied upon in the SCN and majority of demand is based on it. He submits that the relied upon documents were not provided to the appellant. He submits that though this issue was raised before the Commissioner (Appeals), however, without considering the request the order in original was upheld. He submits that without providing the relied upon documents, the appellant could not make any defence before the adjudicating authority as well as Commissioner (Appeals).

2. Sh. K.J. Kinariwala Ld. Assistant Commissioner (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

3. Heard both the sides and perused the record. We find that the matter can be remitted back to the adjudicating authority only on the ground that the relied upon document were not provided to the appellant, therefore, the adjudicating authority is directed to provide relevant relied upon documents and thereafter pass afresh order, after providing the personal hearing to the appellant. The impugned orders are set aside and appeals are allowed by way of remand to the adjudicating authority.

(Dictated & pronounced in the open court)

**(RAMESH NAIR)**  
**MEMBER (JUDICIAL)**

**(RAJU)**  
**MEMBER (TECHNICAL)**