Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO. 3

Service Tax Appeal No. 11893 of 2019

(Arising out of OIA-CCESA-SRT-APPEAL-PS-013-014-2019-20 Dated-22/04/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Prima Fruit Products **........Appellant**
55/A, Panchal Industrial Estate, Bhimpore, Nani Daman
Daman, Gujarat

VERSUS

C.C.E. & S.T.-Daman **........Respondent**
3rd Floor...Adarsh Dham Building, Vapi-Daman Road,
Opp.Vapi Town Police Station,
Vapi, Gujarat-396191

AND

Service Tax Appeal No. 11902 of 2019

(Arising out of OIA-CCESA-SRT-APPEAL-PS-013-014-2019-20 Dated-22/04/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Prima Fruit Products **........Appellant**
55/A, Panchal Industrial Estate, Bhimpore, Nani Daman
Daman, Gujarat

VERSUS

C.C.E. & S.T.-Daman **........Respondent**
3rd Floor...Adarsh Dham Building, Vapi-Daman Road,
Opp.Vapi Town Police Station,
Vapi, Gujarat-396191

APPEARANCE:
None appeared for the Appellant
Shri Dinesh Prithiani, Authorised Representative appeared for the Respondent

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

Final Order No. A/ 10308-10309 /2022

DATE OF HEARING:05.04.2022
DATE OF DECISION:05.04.2022

RAMESH NAIR

When the matter was called out, none appeared on behalf of the appellant, therefore, the appeals are taken up for disposal.

2. Shri Dinesh Prithiani, learned Assistant Commissioner (Authorised Representative) appearing on behalf of the revenue reiterates the findings of the impugned order.

I have carefully considered the submission made by learned Authorised Representative and perused the records.

At the outset, I find that impugned order was passed Ex-parte. The relevant para of the order regarding the personal hearing is reproduced below:

"4. Personal hearings in the case were fixed for 10.04.2019, 12.04.2019 and 16.04.2019, but nobody appeared on behalf of the appellant. Hence, the appeal is being taken up for decision on the basis of written submission made by the appellant and records available on file."

From the above para, it appears that in one notice three dates of hearing were given and thereafter no further opportunity was given and order was passed Ex-parte. It is settled law that in a single notice three dates cannot be considered as three opportunities, it should be considered as one opportunity only. Whereas as per the statutory provision, the assessee should be provided three different opportunities of personal hearing. In these circumstances, I have no hesitation to say that the learned Commissioner (Appeals) has violated the principles of natural justice by not providing the sufficient opportunity to the appellant for presenting their case. Only on this point itself, the impugned order is not sustainable. Accordingly, the impugned order is set aside. Appeals are allowed by way of remand to the Commissioner (Appeals) for passing a fresh order after giving sufficient opportunity of personal hearing to the appellants.

(Dictated and Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

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