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

REGIONAL BENCH- COURT NO.3

Service Tax Appeal No.11612 of 2019
(Arising out of OIA-BHV-EXCUS-000-APP-089-2019 dated 20/03/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-RAJKOT)

Nitin Construction Co No 2 **......Appellant**
Block No. 11, Navjivan Society, Anantwadi
Bhavnagar, Gujarat

VERSUS

C.C.E. & S.T.-Bhavnagar **.........Respondent**
Plot No.6776/B-1...Siddhi Sadan, Narayan Upadhyay Marg,
Beside Gandhi Clinic, Near Parimial Chowk,
Bhavnagar, Gujarat - 364001

APPEARANCE:
None appeared for the Appellant
Shri P.K Singh, Superintendent (Authorized Representative) for the Respondent

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

Final Order No. A/ 10377 /2022

DATE OF HEARING: 04.04.2022
DATE OF DECISION: 04.04.2022

RAMESH NAIR

This appeal is directed against the OIA dated 20.03.2019 whereby the Learned Commissioner (Appeals) dismissed the appeal on ground of limitation as the appeal was filed after 700 days from the date of communication of the Original Order. When the matter was called out none appeared on behalf of the appellant.

2. Shri P.K Singh, Learned Superintendent (AR) appearing on behalf of the revenue reiterates the finding of the impugned order and submits that the Learned Commissioner (Appeals) has rightly dismissed the appeal as there is an admitted delay of 700 days in filing the appeal before the Commissioner (Appeals).

3. I have carefully considered the submission made by Learned AR and perused the records. On going through the grounds I find that the main grievance of the appellant is that the impugned order was passed ex-parte

as no hearing was granted. Accordingly, the learned Commissioner (Appeal) has erred in passing the order ex-parte without providing opportunity of personal hearing to the appellant. I find that since the order was passed by non observance of Principle of Natural justice, the order is not sustainable.

4. Therefore, the impugned order is set aside and the appeal is disposed of by way of remand the commissioner (Appeals) to decide the matter a fresh after giving sufficient opportunity to the appellant.

(Dictated & Pronounced in the open court)

RAMESH NAIR
MEMBER (JUDICIAL)

Geeta