

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

REGIONAL BENCH- COURT NO. 3

CUSTOMS Appeal No. 12422 of 2014

(Arising out of OIO-04/COMMR/DRI/2014 Dated-24/03/2014 passed by Commissioner of CUSTOMS-AHMEDABAD)

Kalpesh Daftary

301, Shubhagan, 14, Swastik Society,
2, Jvpd Scheme, Vile Parle West,
Mumbai, Maharashtra,

.....Appellant

VERSUS

C.C.-Ahmedabad

Custom House,
Near All India Radio Navrangpura,
Ahmedabad, Gujarat

.....Respondent

WITH

CUSTOMS Appeal No. 12475 of 2014

(Arising out of OIO-04/COMMR/DRI/2014 Dated-24/03/2014 passed by Commissioner of CUSTOMS-AHMEDABAD)

Piyush S Viramgama

Ashiyana Fulwadi Park,
Nana Mava Road, Near 150 Ring Road,
Rajkot, Gujarat

.....Appellant

VERSUS

C.C.-Ahmedabad

Custom House,
Near All India Radio Navrangpura,
Ahmedabad, Gujarat

.....Respondent

APPEARANCE:

Shri. Hardik Modh, Advocate for the Appellant

Shri. Dharmendra Kanjani, Superintendent (AR) for the Respondent

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

Final Order No. A/ 10954-10955 /2022

DATE OF HEARING:30.06.2022
DATE OF DECISION:10.08.2022

RAMESH NAIR

These appeals are directed against the Order-In-Original No. 04/Commr/DRI/2014 dated. 24.03.2014 whereby Commissioner of Customs, Ahmedabad imposed penalties upon the Appellants under Section 112(a) of the Customs Act, 1962 and under Section 114AA of the Customs Act, 1962 for their alleged involvement of forged /fake VKGUY /DEPPB license and imports there under.

2. Shri Hardik Modh, Ld. Counsel appearing on behalf of Appellants submit that the impugned order-in-original dated 24.03.2014 has been passed by the Ld. Commissioner in gross-violation of principles of natural justice by not granting personal hearing. The impugned order states that the Appellants were granted personal hearing on 24.02.2014, 10.03.2014 and 18.03.2014 but the Appellant did not appear for hearing on any of these dates. However, Learned Commissioner has not considered the request sent by the Appellants seeking adjournment in the matter.

2.1 He also submits that requests for cross –examination was also not considered by the Ld. Commissioner.

3. Shri. Dharmendra Kanjani, Learned Superintendent (Authorized Representative) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. We have heard both the sides and perused the records. We find that as per the facts narrated by the Ld. Counsel, these appeals may be disposed of only on the ground of natural justice. Therefore, we are not going into the merit of the case. We find that in the impugned matter Appellants' request for adjournment of hearing was not considered by the Ld. Commissioner. Moreover Appellant received the hearing notice dated 11.03.2014 on 19.03.2014 fixing personal hearing on 18.03.2014 i.e. after the date of hearing. The Appellant vide letter dated 21.03.2014 immediately informed the Ld. Commissioner that they received hearing notice after the date of hearing. However without considering the Appellant's request Ld. Commissioner has decided the matter ex-parte. It is also observed that the Appellants have sought for cross–examination but the same was also not considered by Ld. Commissioner.

4.1 It is the basic principle of the Natural justice that no one can be condemned unheard. Natural Justice is an un codified law purely based on principle of substantial justice and judicial spirit. Principles of Natural Justice are the cardinal principles, which must be followed in every judicial and quasi judicial proceeding. Authorities should exercise their powers fairly reasonably & impartially in a just manner. They should not decide a matter in backside of the party.

5. In this position, we find that there is clear violation of natural justice. Therefore, ex-parte order passed by the Adjudicating Authority will not sustain. Accordingly, we set aside the impugned order in respect of these Appellants and remand the matter to the Adjudicating Authority for passing a fresh order after granting sufficient personal hearing. The Appeals are allowed by way of remand to the Adjudicating Authority.

(Pronounced in the open court 10.08.2022)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

PRACHI