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

REGIONAL BENCH- COURT NO.3

Service Tax Appeal No.387 of 2012

(Arising out of OIA-181/2012/COMMR-A-/RBT/RAJ dated 11/04/2012 passed by Commissioner of Central Excise-RAJKOT)

Dhenu Infrastructure Pvt Ltd ....**Appellant**
Shop No. 2, Akashganga Aprtment, Nirmala Convent Road,
Rajkot, Gujarat

VERSUS

C.C.E. & S.T.-Rajkot ....**Respondent**
Central Excise Bhavan,
Race Course Ring Road...Income Tax Office,
Rajkot, Gujarat-360001

APPEARANCE:
Shri R.Subramanya & Shri R. Sharan, Advocates for the Appellant
Shri R P Parekh, Superintendent (AR) for the Respondent

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

Final Order No. A/ 10983 /2022

DATE OF HEARING: 10.08.2022
DATE OF DECISION: 10.08.2022

RAMESH NAIR

Shri R. Subramanya, learned counsel appearing on behalf of the appellant submits that this appeal was filed against the Order-In-Appeal whereby, the matter of refund was remanded by the learned Commissioner (Appeals) to the adjudicating authority which is conditional one. He referred to Para 8 of the impugned order. He submits that since before the adjudicating authority, no opportunity of personal hearing was given and an ex-parte order was passed therefore the impugned order may be set aside and the matter may be remanded to the adjudicating authority for deciding afresh after granting the hearing

02. Shri R.P Parekh, learned Superintendent (AR) appearing on behalf of the revenue reiterates the finding of the impugned order.

03. On careful consideration of submissions made by both the sides and perusal of records, we find that it is fact on record that the appellant were

not given any opportunity to present their case before the adjudicating authority and an order was passed ex-parte.

04. Therefore, in our considered view, there is gross violation of principles of natural justice on the part of the adjudicating authority hence, we set aside the impugned order and remand the matter to the adjudicating authority for passing a fresh order after granting sufficient opportunity to the appellant. Appeal is disposed of by way of remand to the Adjudicating Authority.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Mehul