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

REGIONAL BENCH- COURT NO. 01

Customs Appeal No. 11184 of 2015
(Arising out of OIO-BHR-EXCUS-000-COM-028-14-15 Dated- 31/03/2015passed by Commissioner of Central Excise, Customs and Service Tax-Bharuch)

Puneet Rungta ....**Appellant**
518, Jeevandeep Building,
Opp J K Tower, Ring Road,
Surat, Gujarat

VERSUS

C.C.E-Bharuch ....**Respondent**
Vadodara-II,GST Bhavan,Subhanpura,Vadodara
Vadodara, Gujarat-390023

WITH

- **Excise Appeal No. 11185 of 2015 (Puneet Rungta)**
- **Customs Appeal No. 11186 of 2015 (Puneet Rungta)**
- **Customs Appeal No. 11187 of 2015 (Puneet Rungta)**

(Arising out of OIO-BHR-EXCUS-000-COM-028-14-15 Dated- 31/03/2015 passed by Commissioner of Central Excise, Customs and Service Tax-Bharuch)

(Arising out of OIO-BHR-EXCUS-000-COM-028-14-15 Dated- 31/03/2015 passed by Commissioner of Central Excise, Customs and Service Tax-Bharuch)

(Arising out of OIO-BHR-EXCUS-000-COM-029-14-15 Dated- 31/03/2015 passed by Commissioner of Central Excise, Customs and Service Tax-Bharuch)

APPEARANCE:
Shri. S. Suriyanarayanan, Advocate for the Appellant
Ms. Sunita Menon, Superintendent (AR) for the Respondent

CORAM: HON’BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

Final Order No. 10110-10113 /2025

DATE OF HEARING:10.02.2025
DATE OF DECISION:10.02.2025

Learned Advocate in this case pleads that the order of the lower authority as well as the order of the Commissioner (Appeals) is violative of natural justice, in so far as the notices were not served to them at the change addressed as same were not properly addressed. The learned Advocate also points that the order made in their absence is incorrect in law and does not address the core issues. They have not been afforded appropriate opportunity to raise various issues in their reply. Further since, the show cause notice was also not served upon them, therefore, the whole proceedings are vitiated by lack of natural justice at two stages.

2. Learned AR apart from relying upon the order, stated that she cannot submit from the record anything to show that process of serving of show cause notice as well as the subsequent notices of hearing as envisaged in Section 37C of the Central Excise Act, 1944 and Section 153 of the Customs Act, 1962 was followed and whether, there was any of affixing done on the last known address of the party or same was affixed on the notice board of the officer or authority who issued such notices only after following the step (b) as contained in Section 37C or not. She therefore states that the matter has been sufficiently addressed on the merits even when the same was ex-parte. Therefore, none appearance of the party or lack of reply on record should not be taken as any serious violation of natural justice. It was equally for the party to ascertain date of hearings.

3. This Court has gone through the records. It is finds that Section 37C of the Central Excise Act, 1944 and Section 153 of the Customs Act, 1962 envisages process of serving any show cause notice, summons etc. The process of serving the same is by sending by the registered post and then as per Section 37(b) by affixing the same at the conspicuous part of the factory or warehouse or other place of business or usual place and next as per sub-clause 37(c) by affixing on the notice board of the officer who issued the same. As per the records, the summons were being received back either as "addresses not available" or "address not being sufficient". The party on its part indicates that it duly received the adjudicating order at its former residence. Be it so, it is clear from whatever is available on records that sequel following of provision of Section 37 (a), (b), (c) is not borne out on records and there is specifically no proof to show that same was pasted on factory etc. It is, therefore, clear that serving of show cause notice was done

improperly as per process of Section 37 (c) of the Central Excise Act, 1944 and Section 153 of the Customs Act, 1962. Further, if the department has not fulfilled its statutory obligation of proper service, party for not checking cannot be faulted with specially when closure/change of address has been intimated. "Doctrine of reasonable expectation" applies, once change is intimated and process of serving has been statutorily prescribed.

3.1 This Court also finds that order of lower authorities in the absence of reply is a mere reproduction of show cause notice and therefore cryptic in its reasoning. Under the circumstances, this Court is of the opinion that the appellants deserve another chance and same should be provided. The party shall communicate the address at which it wants all notices of hearing, show cause notice etc to the department within 15 days of the receipt of this order. The matter shall be re adjudicated by the original authority by serving the appropriate notice at the address which the party provides as per the directions of this Court. Matter is accordingly remanded for both parties to do the needful.

4. Impugned order is set aside, appeals are remanded.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi