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

REGIONAL BENCH- COURT NO.1

Customs Appeal No. 12275 of 2018

(Arising out of Order-in-Original No. AHM-CUSTM-000-COM-019-18-19 dated 18.05.2018 passed by Principal Commissioner - Ahmedabad)

Surendra Singh Pabana **...Appellant**
302, Shivalik Apartment, Nr. Lakhudi Talav
Navrangpura, Ahmedabad, Gujarat-380009

VERSUS

Commissioner of Customs-Ahmedabad **...Respondent**
Custom House,Near All India Radio,
Navrangpura, Ahmedabad-Gujarat

WITH

(i) Customs Appeal No. 12591/2018 (Roshni Khan);
(ii) Customs Appeal No. 12592/2018 (Mohd Vaqar)
(iii) Customs Appeal No. 12593/2018(Mohd Azhar)

(Arising out of Order-in-Original No. AHM-CUSTM-000-COM-019-18-19 dated 18.05.2018 passed by Principal Commissioner - Ahmedabad)

APPEARANCE:
Sh. Dipak Kumar, Counsel with Sh.Amal Dave, Advocate appeared for the Appellant
Shri Sanjay Kumar, Authorised Representative appeared for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER(TECHNICAL)

FINAL ORDER NO. 10638-10641 /2025

DATE OF HEARING: 11.08.2025
DATE OF DECISION:11.08.2025

SOMESH ARORA:

In these bunch of appeals, appellants are aggrieved because of non affording of cross examination on the witnesses whose statements were relied upon during the process of adjudication and also the cross examination of the officers involved as was sought from the adjudicating authority, which rejected the request through one liner without affording reasons.

2. Learned AR points out that the adjudicating authority has relied upon the decision of Hon’ble Andhra Pradesh High Court in the case of M/s Manidhari Stainless Wire Pvt Ltd. vs UOI reported in 2018 (360) ELT 255 and also for the denial of cross examination of officers, he places reliance

on the decision of Hon'ble High Court of Madras in the matter of M/s Avana Surgical Systems Pvt. Ltd. 2024 (387) ELT 540 (Mad.).

3. Learned counsel and the advocate appearing for the parties, on the other hand, relied upon the decision of Hon'ble Supreme Court in Andaman Timber Industries vs Commissioner of Central Excise, Kolkata-II reported in 2015 (324) ELT 641 (SC) to indicate that the cross examination of the witnesses whose statements have been relied upon has to be afforded. They also relied upon the statutory provisions as contained in Section 138B of the Customs Act, 1962.

4. We have gone through the rival submissions. We find that the reasons which are the soul of every decision are incidentally missing in the instant case. Even in the case relied upon by the learned AR of Hon'ble Andhra Pradesh High Court (cited supra) when the conclusions were agreed to only after going through the reasons as were on record and were produced by the adjudicating authority for denial of cross examination, which also are missing in this case. From the decision of Hon'ble High Court of Madras (cited supra), we find that as far as cross examination of officers is concerned, the same is not applicable and has to be afforded to the party only when some kind of statements of the officers is being relied upon. However, in these instances cross examination have been sought by the appellants of witnesses as well as officers, still there is absolute absence of reasoning for rejection. In view of the same, we find these are fit cases to remit back to the adjudicating authority to afford cross examination or to provide reasons for rejections, if any. This includes the request as may be made by the appellants for cross examination of officers also which has to be either allowed or suitably rejected with elaborate reasoning. Appeal allowed by way of remand to the adjudicating authority. Impugned order is set aside. Appeals are allowed by way of remand.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

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