

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD**

REGIONAL BENCH - COURT No. I

Excise Appeal No.70917 of 2016

M/s Ganpathi Plastics & Engineering

.....Appellant

VERSUS

Commissioner (Appeals), Central Excise

& Customs, Meerut-II

....Respondent

Present for the Appellant: Shri Sharad Chandra Tewari, Advocate

Present for the Respondent: Shri Sandeep Pandey, Authorised Representative

DATE OF HEARING: 09.08.2023

ORDER SHEET

Taking note of the fact that certain relied upon documents mentioned in para 9 of the Show Cause Notice were not given to the appellant at time of issuance of show cause notice or during the course of adjudication, CESTAT had vide its Interim Order No.13-14/2018 dated 13/04/2018 directed the Revenue for production of the file along with the relied upon document and also for handing over the relied upon document to the appellant before next date of hearing.

2. Counsel appearing for the appellant submits that these documents have not been made available to him even now i.e. after lapse of more than five years from the date of interim order. When asked, the authorized representative referred to two letters written by the authorized representative to the jurisdictional Commissioner, in 2018 by which the observations of the bench were communicated. However, he admitted that the documents have still not been supplied to the appellant. Such a callous approach of the revenue authorities in complying with the order of the bench is deplorable. Jurisdictional Commissioner

is directed once again to provide all the relied upon documents to the appellant under proper acknowledgement before the next date of hearing.

3. I also note that in the present case the entire amount of duty demanded, interest and 25% of duty amount as penalty was paid even prior to the issuance of show cause notice. Even in cases where extended period as per section 11A (4) is invokable, no show cause notice should have been issued. Section 11 A categorically provides that on the receipt of this information no show cause notice should have been issued. It is not understood as to what prompted the commissioner for issuance of the show cause notice and subsequent proceedings for next eight years.

3. Revenue thus is directed to produce the document as directed by the Tribunal vide Interim Order No.13-14/2018 dated 13/04/2018 alongwith the case file for perusal for the bench on the next date of hearing. In case revenue fails to comply with the directions contained in this order, it will be presumed that these documents and files are not available and the case will be taken up for consideration ignoring these documents.

List on 15 September, 2023.

**(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)**

LKS