

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

REGIONAL BENCH - COURT No. I

Excise Appeal No.70917 of 2016

M/s Ganpati Plastics & Engineering,Appellant

VERSUS

**Commissioner of Central Excise &
CGST, Meerut-II**

....Respondent

WITH

Excise Appeal No.70918 of 2016

Shri Avenish Kumar Garg,Appellant

VERSUS

**Commissioner of Central Excise &
CGST, Meerut-II**

....Respondent

Present for the Appellant: Shri Subhash Chandra, Advocate

Present for the Respondent: Shri Sandeep Pandey, Authorised
Representative

DATE OF HEARING : 15/09/2023

ORDER SHEET

When the matter was called learned Counsel appearing for the appellants submits that the documents which were relied upon documents in the show cause notice have not been given to him inspite of repeated direction from the Bench.

2. Learned Authorized Representative appearing for the revenue submits that they have written a letter on 11 August, 2023 for providing these documents but they have not received any response.

3. While passing the last order this Bench has directed as follows:-

"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."

4. It is observed that revenue has been treating this matter in most casual manner in contempt of the orders of the Bench and not providing the documents to the appellant which are relied upon in the show cause notice. Such approach is condemnable for the above stated reasons.

5. In my view, if revenue is not in position to provide the RUDs there could have been no show cause notice and the appeals could have been decided on this ground itself. The bench has on last occasion specifically directed for production of the case file. If the said case file and relied upon documents are not available with the revenue they should have stated so. **In terms of Rule 41 of CESTAT Procedure Rules, 1982, Jurisdictional Commissioner who is supposed to hold the custody of the case file along with relied upon documents is directed to file an affidavit in this regard clearly explaining the reasons for default in not producing these before the bench when specific instructions have been given vide Interim Order No 13-14/2018 dated 13.04.2018 even after lapse of 5 years. In his affidavit he should clearly state whether the documents are available with him or not.**

6. Taking note of pleadings made by the authorized representative the matter is adjourned to afford a last chance to the revenue to make available all the relied upon documents along with affidavit of jurisdictional Commissioner as referred in para 5.

7. I want to make it clear that in case Revenue fails to provide these documents which are relied upon in the show cause notice, the case may be disposed in favour of the appellant without any further opportunity, as without RUDs no show cause notice could have been issued.

8. Copy of this order should be given '**Dasti**' to the concern Commissioner, for necessary compliance. Copy of this order should also be given to "**Chief Commissioner**" and also the "**Member in Charge of the Zone**" to ensure that interests of the revenue are duly protected and the relied upon documents are provided to the appellant and the bench before the next date of hearing.

9. Mater is adjourned to **19.10.2023**.

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

akp