

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

REGIONAL BENCH - COURT No. I

Excise Appeal No.70721 of 2019

Shri Naresh Chandra Dwivedi

.....Appellant

VERSUS

Commissioner (Appeals), CGST &

Central Excise, Kanpur

....Respondent

Present for the Appellant: Shri Kartikeya Narain, Proxy Counsel

Present for the Respondent: Shri Santosh Kumar, Authorised Representative

DATE OF HEARING: 22.09.23

ORDER SHEET

When the matter was called learned Authorized Representative appearing for the Revenue produced a letter dated 21.09.2023 for Joint Commissioner (Adjudication) CGST & Central Excise, Kanpur. Alongwith the said letter an order of Chief Commissioner CGST & Central Excise, Lucknow has been enclosed which is dated 13.12.2022. It is the submission of A.R. that the cases have been transferred as per this order to Assistant Commissioner (Audit), CGST Circle-II, Kanpur therefore another two months time should be allowed for adjudication of the case.

2. It is observed from the order sheet dated 24.07.2023 that the personal hearing in the matter was completed in March, 2023. As the date of personal hearing is much after the order of

transferring of the cases to Assistant Commissioner (Audit), CGST Circle-II, Kanpur dated 13.12.2022 which has been enclosed by the Joint Commissioner along with the letter dated 21.09.2023, the submissions made by the authorized representative for not completion of adjudication are without any merits.

3. Board has issued instructions that matters after completion of personal hearing matter should have been adjudicated within a month's time. More than six months have elapsed since the completion of the hearing and another two months time is being asked for. Nothing has been submitted by the A.R. or the Joint Commissioner forwarding this letter to show that the matter was under active consideration of adjudicating authority during this period of six months. Such delay in adjudication proceedings after completion of personal hearing is to be condemned.

4. Board's Circular No.732/48/2003-CX dated 05.08.2003 states as follows:-

"2. Board has taken a serious view of the matter. In this connection your attention is invited to Board's Circular No.32/80-CX.6 dated 26th July, 1980 in which it has been directed that in all such cases where personal hearing have been concluded it is necessary to communicate the decision immediately or within a reasonable time of 5 days. Where for certain reasons, the above time limit cannot be adhered to in a particular case, the order should be issued within 15 days or at most one month from the

date of conclusion of personal hearing. The above instructions of Board are reiterated.

3. Board desires that Chief Commissioners and Commissioners should devise a suitable mechanism to ensure that Board's instructions as above are adhered to in true letter and spirit and any failure to adhere the prescribed time limit should be viewed seriously."

4. Adjudication proceedings should be completed by the Adjudicating Authority within a month of time and compliance submitted. This appeal can be taken up for final disposal only then.

5. Copy of this order should be given to the concerned jurisdictional Commissioner and Chief Commissioner for proper monitoring so that case is disposed before the next date of hearing.

6. Copy of this order to be given **Dasti** to A.R. appearing for the Revenue.

7. List on **23rd October, 2023.**

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

LKS