CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH

EXCISE APPEAL NO: 70399 OF 2017

[Arising out of Order-in-Original No: 65/COMMISSIONER/NOIDA-II/2016-17 dated 28/02/2017 passed by the Commissioner of Central Excise, Noida – II.]

GODDONE INFRASTRUCTURES PVT LTD
F-45, Sector-11, Noida
Uttar Pradesh - 201301 ...***Appellant***

versus

Commissioner of Central Excise
Noida – II
Wegmans Business Park, Plot No.3,
Knowledge Park – III, Greater Noida
Gautam Buddh Nagar - 201306 ***...Respondent***

WITH

EXCISE APPEAL NO: 70357 OF 2024

[Arising out of Order-in-Appeal No: NOI-EXCUS-001-APP-1846-17-18 dated 19/03/2018 passed by the Commissioner of Customs & Central Tax (Appeals), Noida.]

GODDONE INFRASTRUCTURES PVT LTD
F-45, Sector-11, Noida
Uttar Pradesh - 201301 ...***Appellant***

versus

Commissioner of Central Tax, CGST & Central Excise
Noida
C-56/42, Renu Tower, Sector – 62, Noida - 201307 ***...Respondent***

APPEARANCE:

Shri Atul Gupta, Advocate for the appellant

Ms Chitra Srivastav, Authorised Representative for the respondent

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO: 70103-70104 /2026

DATE OF HEARING:	06/04/2026
DATE OF DECISION:	06/04/2026

PER: AJAY SHARMA

These appeals have been filed against the impugned orders, viz., Order-in-Original No. 65/COMMISSIONER/NOIDA-II/2016-17 dated 28/02/2017 and Order-in-Appeal No. NOI-EXCUS-001-APP-1846-17-18 dated 19/03/2018 passed by the Commissioner of Central Excise, Noida – II and Commissioner of Customs & Central Tax (Appeals), Noida, respectively.

2. We have heard Learned Counsel for the appellant and Learned Authorised Representative appearing on behalf of Revenue and perused the records.

3. During the course of hearing, our attention was drawn to the conduct of the appellant in one of the appeals before the adjudicating authority i.e., the Learned Commissioner, which has been recorded in paragraph 4 of the impugned order as extracted herein below

> *'Many opportunity of being heard were extended to the party by issuing letters fixing personal hearing on dates*

> *30.11.2016, 01.12.2016, 14.12.2016, 03.01.2017, 25.01.2017 and 22.02.2017. However, no one from the party side turned up for the personal hearing.'*

The said record indicates that despite various opportunities given no representation was made on behalf of the appellant before the adjudicating authority.

4. When this aspect was put to the Learned Counsel for the appellant, it was contended that, even in the absence of appearance, the adjudicating authority was under an obligation to consider the pleadings and pass a reasoned order thereon. However, upon careful consideration, we find that the position is not as straight forward as sought to be projected. Though after some arguments, learned Counsel prayed for remanding the appeals and filed the synopsis to that effect which are extracted hereunder:

> *'1. In the Appeal no. E/70399/2017, the appellant could not appear before the Adjudicating Authority at the time of personal hearing and therefore, the Adjudicating Authority confirmed the demand of Central Excise Duty by invoking extended period of limitation and also demanding interest and imposing equal penalty.*
>
> *2. In Appeal No. E/70357/2024, the learned Commissioner (Appeal) allowed the appeal partially by setting aside the demand for the extended period of limitation.*
>
> *3. Subsequent, to the filing of above referred appeals the Hon'ble CESTAT has passed Final Orders on the*

> *issue and such decisions were not available to the Adjudicating Authority at the time they passed the Orders.*
>
> *4. In view of the above, it is submitted that the matter may be remanded back to the Adjudicating Authority to the extent it is prejudicial to the interest of the Appellant.'*

5. The prayer for remand was opposed by learned Authorised Representative appearing for Revenue by submitting that despite so many opportunities the appellant deliberately did not appear before the learned Commissioner and now they may not be permitted to take advantage of their own wrong.

6. It is evident from the case records that certain judicial decisions and legal submissions, now strongly relied upon before us, were not even placed before the Learned Commissioner. Further, a perusal of the submissions advanced during the course of hearing reveals that some of the contentions urged herein were not raised before the lower authority. In such circumstances, the adjudicating authority cannot be faulted for not dealing with or adjudicating upon issues and precedence which were never brought to its notice. The adjudication process is fundamentally premised on the materials and contentions presented before the authority and it would be inappropriate to evaluate the correctness of the order on the basis of grounds/submissions not raised therein.

7. At the same time, it cannot be gainsaid that a quasi

judicial authority is required to pass a speaking and reasoned order, dealing with the submissions that are duly placed before it. The absence of effective participation by the appellant appears to have resulted in an incomplete adjudication of the issues now sought to be canvassed. In the interest of justice and to ensure that the matter is decided on comprehensive consideration of all relevant facts and binding legal principles, we are of the considered view that the matter warrants remand.

8. Since the issue is similar in both the appeals, though in the second appeal only part of the order has been challenged, therefore, in the interest of justice, both appeals are required to be remanded to the extent they are under challenge before us.

9. Accordingly, without expressing any opinion on the merits of the appeals, the impugned orders are set aside to the extent challenged herein and the matters are remanded to the concerned adjudicating authorities for a fresh decision. It goes without saying that the authorities concerned shall afford a reasonable opportunity of hearing to the appellant, permit them to place all relevant submissions and judicial decisions on record and thereafter pass a speaking order in accordance with the law. The appellant is also directed to extend full cooperation in the remand proceedings and to attend the hearing before the said authority as and when fixed and to ensure that all submissions intended to be relied upon are duly placed before the adjudicating authority. The appeals are thus allowed by way of

remand and impugned orders are set aside to the extent they are challenged before us.

(Operative part of the order pronounced in the open court on 6th April 2026)

(AJAY SHARMA)
Member (Judicial)

(P. ANJANI KUMAR)
Member (Technical)

**/as*