CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>ALLAHABAD</u>

REGIONAL BENCH - COURT No.II
(E-Hearing)
Service Tax Appeal No.70006 of 2015

(Arising out of Order-in-original No.46/Commr/Lko/ST/2014-15 dated 25.03.2015 of the Commissioner Central Excise and Service Tax Lucknow)

M/s Sigma Trade Wings, **.....Appellant**

(D-165, Faizabad Road, Indira Nagar, Lucknow)

VERSUS

Commissioner of Central Excise &

Service Tax, Lucknow **....Respondent**

(7-A, Ashok Marg, Lucknow)

<u>APPEARANCE:</u>

Shri Dharmendra Kumar, Chartered Accountant for the Appellant
Shri Santosh Kumar, Authorised Representative for the Respondent

CORAM: HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.70318/2026

DATE OF HEARING : 30 July, 2026
DATE OF PRONOUNCEMENT : 01 September, 2026

<u>SANJIV SRIVASTAVA:</u>

This appeal is directed against order-in-original No. 46/Commr/Lko/ST/ 2014-15 dated 25.03.2015 of the Commissioner Central Excise and Service Tax Lucknow. By the impugned order following has been held:

ORDER

1. *I confirm the demand of service tax amounting to Rs. 1,78,36,694/-(Rupees One Crore, Seventy Eight Lacs, Thirty Six Thousand, Six Hundred Ninety Four only) against M/s Sigma Trade Wings, D-165, Faizabad Road, Indira Nagar, Lucknow under Section 73 of the Finance Act, 1994 was confirmed.*

2. *I also order the recovery of interest at appropriate rate on the amount of service tax confirmed at SI.No. 1 above, from M/s Sigma Trade Wings, D- 165, Faizabad Road, Indira Nagar, Lucknow under Section 75 of the Finance Act, 1994 was orderd.*
3. *I also impose a penalty of Rs. 1,78,36,694/- (Rupees One Crore, Seventy Eight Lacs, Thirty Six Thousand, Six Hundred Ninety Four only) upon M/s Sigma Trade Wings, D-165, Faizabad Road, Indira Nagar, Lucknow under Section 78 of the Finance Act, 1994.*
4. *I also imposed a penalty of Rs. 200/- for every day w.e.f. 01.04.2004 till the actual date of taking of registration for "Business Auxiliary Service upon M/s Sigma Trade Wings, D-165, Faizabad Road, Indira Nagar, Lucknow under Section 77(1) of the Finance Act, 1994.*

2.1 Appellant is a partnership firm and Shri Mahendra Dev Dixit, Shri Narendra Dev Dixit & Shri Kamla Prasad Dixit are the partners of the firm. They are engaged in providing services covered under category Advertising Agency Services' which is a taxable service in terms of Section 65 (105)(e) of the Finance Act, 1994. They were registered with the department and have Service Tax Registration No AAOFS9857RST001.

2.2 Acting upon intelligence that the party was not discharging its service tax liability fully, the premises of appellant was searched on 12.02.2010 in presence of Ms. Pronita Sharma, Authorized Signatory of the appellant, who in her statement recorded on spot stated that

- the firm M/s Sigma Trade Wings, D-165, Faizabad Road, Indira Nagar, Lucknow is registered with the service tax department.
- It is a partnership firm and Shri Mahendra Dev Dixit, Shri Narendra Dev Dixit & Shri Kamla Prasad Dixit are the partners of the firm.
- Shri Mahendra Deo Dixit monitors & supervises all the works of the firm.

- Cenvat credit is taken on the input services and it is utilized in the payment of service tax of M/s Sigma Trade Wings.

2.3 Shri Mahendra Dev Dixit, partner, in his statement dated 12.02.2010 stated that:-

- He is looking after works of marketing, operation, execution of advertising material, follow up for the realization of out standings as well as looking after all the staff.
- They do not deposit Service Tax unless their bill is finally realized or settled. In case of partial realization against a particular bill they do not make service tax payment against this partial realization. The realized amount is shown in receiving but as on this amount service tax is to be deposited later on, when the bill is finally paid/settled. Because of this reason there is difference between realized amount and service tax deposited.
- They make full payment of service tax immediately after realization of full amount of a particular bill. In case where realization of remaining amount of a particular bill is not feasible, they settle the same on partially realized amount and then make payment on this realized amount.

2.4 Shri Rajeev Bansal, C.A. of appellant in his statement dated 25.08.2010 stated that,-

- He has conducted tax audit of M/s Sigma Trade wings and M/s Kadam Advertising & Mkt. Pvt. Ltd. for financial year 2007-08 & 2008-09.
- Balance sheet and accounts are audited on the basis of Computer generated records such as cash book, ledger & Journal book.
- There are transaction of loans & advances which both the firms do in case of need. The transactions can be seen from the ledger accounts of both the firm and no tax liability accrues from these transactions.

2.5 During the course of investigations, it was found that the party had made an agreement with the Nagar Palika Parishad, Raebareli to collect the advertisement tax on advertisements displayed in the municipal limits on pre-decided rates as per agreement.

2.6 Appellant provided the balance sheets of their firm for the periods 2004-05, 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10. In the profit & loss account of the balance sheets of the party, income is shown under the headings paper ad, service charges, misc. income, municipal tax, display charges & other receipts. The income shown under various heads in the Balance Sheet of the party is shown below in tabular form:-

Receipt as per Balance Sheet	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Paper Ad	783647	542295	131141	0	0	
Service Charges	18237282	34706040	41706913	0	0	
Misc. Income	32541	6124	21407	0	0	
Municipal Tax	0	1234245	166650	240900		
Display Charges	0	0	0	72651280	63114477	
Other Receipts	0	0	0	79569	14462	
Gross receipts from Business	0	0	0	0	0	83992268
Total	19053470	36488704	42026111	72971749	63128939	83992268

2.7 On scrutiny of balance sheets, tally account and ST-3 returns filed by the party, it was found that the year wise payments received by the party from their clients as per the balance sheets/tally account and the taxable amount shown by them in their ST-3 returns submitted to the department show difference. The year wise payments received by the party from their clients as per balance sheet/Tally account, the service tax chargeable thereon and the difference of Service Tax payable by the party are depicted below in the tabular form:-

Period	Receipts as per		Service tax (including Edu. Cess)			
	Tally A/c	Balance sheet	@ %	Payable on higher of 2 &3	Paid	Difference
1	2	3	4	5	6	7
2004-05	0	19053470	10.2	1943454	699569	1243885
2005-06	0	36488704	10.2	3721848	1622688	2099160
2006-07	0	42026111	12.24	5143996	3466671	1677325
2007-08	59388060	72971749	12.36	9019308	4560990	4458318
2008-09	68118168	63128939	12.36	8419406	4600493	3818913
2009-10	0	83992268	10.3	8651204	4112111	4539093
TOTAL				36899216	19062522	17836694

2.8 Shri Mahendra Dev Dixit, Partner in his statement recorded on 10.12.2010 stated that,-

- regarding the difference in the received amount shown in the tally account for the financial year 2008-09 and the figures shown in the balance sheet for this year, he replied that due to lack of knowledge of accounts, he will inform by 15th December, 2010 after consulting his accountant.
- value of taxable services provided as mentioned in ST-3 returns is reflected in profit & loss account of the balance sheet on its annexures side under the head income.
- the difference between the value of taxable service shown in the ST-3 returns and income shown in the profit & loss account of the balance sheets/tally account, is for lot of reasons for such differences such as non taxable services, realization, material supplied etc., provided by them. He stated that he will submit reconciled figures in this regard by 15th December, 2010.
- Municipal Tax shown as income in their balance sheet is the advertisement tax for the display on boards within the Municipal Limits, on the basis of contracts entered between them and the Municipalities. They collect this tax on the basis of pre decided rate as per the agreement. They collect this tax on behalf of Nagar Palika Parishad, Raebareli as per agreement dated 31.03.2008.

- M/s Sigma Trade Wings, Lucknow vide their statement dated 10.12.10 admitted that the value of taxable services shown in the ST-3 returns is reflected under the head income shown in the profit & loss account of the balance sheet.

2.9 A Show Cause Notice dated 12.01.11 was issued to the appellant asking them to show cause as to why:

(i) Service Tax amounting to Rs 1,78,36,694.00 (Rupees One crore seventy eight lacs thirty six thousand six hundred ninety four only) should not be demanded and recovered from them in terms of proviso to Section 73(1) of the Act for violation of Section 68 read with Rule 6 of the Service Tax Rules, 1994.

(ii) The interest amount should not be levied and recovered at applicable rate on the above amount of Service Tax & Education Cess under Section 75 of the Act for late depositing of Service Tax.

(iii) Penalty should not be imposed upon them under the provisions of Section 76 and 78 of Act upto 09.05.08 and w.e.f. 10.05.08 under section 78 of the Finance Act 1994 for failure to pay Service Tax & suppressing the facts and value of taxable service and for contravention of Section 68 of the Act read with Rule 6 of the Rules.

(iv) Penalty should not be imposed upon them under the provision of Section 77of the Finance Act, 1994 for contravention of Rule 4 & 7 of Service Tax Rules, 1994 read with Section 69 & 70 of Finance Act, 1994 by not applying for registration under 'Business Auxiliary Service" despite being indulged in receiving/providing taxable service; by not filing the required statutory returns.

2.10 The show cause notice was adjudicated vide Order-in-Original No. 33/Commr/LKO/ST/2011-12 dated 29.02.2012 holding as follows:

- *A demand of service tax amounting to Rs. 1,78,36,694/- (Rupees One Crore, Seventy Eight Lacs, Thirty Six*

Thousand, Six Hundred Nine Four only) against M/s Sigma Trade Wings, D-165, Faizabad Road, Indira Nagar, Lucknow under Section 73 of the Finance Act, 1994 was confirmed.

- *Recovery of interest at appropriate rate on the amount of service tax confirmed at SI.No. 1 above, from M/s Sigma Trade Wings, D- 165, Faizabad Road, Indira Nagar, Lucknow under Section 75 of the Finance Act, 1994 was orderd.*
- *Imposed a penalty of Rs. 1,78,36,694/- (Rupees One Crore, Seventy Eight Lacs, Thirty Six Thousand, Six Hundred Nine Four only) upon M/s Sigma Trade Wings, D-165, Faizabad Road, Indira Nagar, Lucknow under Section 78 of the Finance Act, 1994.*
- *Imposed a penalty of Rs. 200/- for every day w.e.f. 01.04.2004 till the actual date of taking of registration for "Business Auxiliary Service upon M/s Sigma Trade Wings, D-165, Faizabad Road, Indira Nagar, Lucknow under Section 77(1) of the Finance Act, 1994.*

2.11 Aggrieved with the order in original, party preferred an appeal in Cestat & Hon'ble Cestat vide Final order no ST/A/55630/2013 dated 19.02.2013, remanded the case for fresh adjudication with the observation as under

2. *Ld. Counsel appearing for the appellant submitted that page 29 which has recorded defence plea also supports the case of the appellant. But Revenue brings out that the documents were not given to the authorities as is revealed by page 44. We are unable to understand why the adjudicating authority failed to reconcile the figures between ST-3 Return and Sales Tax Return. But it was submitted by ld. Counsel that what they conceived to be taxable service, the charges thereon exhibited at pate 52 of appeal folder has suffered tax.*
3. *We notice that had there been a thread bare analysis of the facts, figures and evidence, such a huge demand would not have arisen. Therefore, without keeping the matter pending in the Tribunal, we remand the matter to the Id. Adjudicating Authority to consider grievance of*

Revenue properly and also the pleadings of the appellant testing the same with evidence. That authority should not hesitate to even call for the figures from the sales tax authority to find out the figures disclosed in ST-3 return whether agreed with the figures in the Sales Tax Return filed for the relevant period. If there is any discrepancy, the appellant should be given an opportunity to explain.

4. *While remanding the matter, it is anxiety of the Id. DR that the matter should receive appropriate consideration by the Id. Adjudicating Authority following the ratio laid down by the Tribunal in the case of Agarwal Colour Lab. We have no hesitation to agree with him. We are also impressed to guide the Id. Adjudicating Authority to take advantage of the judgement of the apex Court in the case of Imagic Creative Pvt. Ltd. Reported in 2008(9) STR 337 (SC) while passing re-adjudicating order.*

2.12 In terms of the above order of the CESTAT matter has been taken up for de novo consideration and has been adjudicated as per the impugned order referred in para 1 above.

2.13 Aggrieved appellant has filed this appeal.

3.1 The matter was heard electronically. We heard Shri Dharmendra Kumar, Chartered Accountant for the appellant and Shri Santosh Kumar Authorzed Representative for the revenue.

3.2 Arguing for the appellant learned counsel submits that:

- During the disputed period appellant was engaged in following business activities:
    - Selling of space for advertisement and other ancillary advertisement services.
    - Income from writing advertisements on walls;
    - Income from selling of space for advertisements in print media.
    - Sale of printed flex
    - Income from collection of advertisement tax.
- In respect of Income from selling of space fro advertisement and other ancillary advertisement services,

appellant has discharged the service tax due and there is no dispute.

- In respect of income from writing advertisements on walls, it is evident that activities undertaking by the appellant were of merely writing the advertisement on walls. They were not doing any other activity as specified by Section 65 (105) of Finance Act, 1994 to hold that this activity was taxable as defined by the said section.
- In respect of income from selling of space in print media, it is evident that appellant was engaged only in trading the space made available by the specified newspapers to the advertisers and charging commission, from the print media. Service of selling space in newspaper for advertisement has been kept out of the definition sale of space in print media as per explanation 2 to Section 65 (105) (zzzm) of Finance Act, 1994. Thus no service tax was payable on these charges.
- In respect of sale of printed flex, it is evident that appellant was selling these and paying the vat in respect of the goods sold. As these activites were in relation to sale of goods on which VAT has been paid these activities cannot be subjected to service tax.
- In respect of income from collection of advertisement tax. Undisputedly these taxes were levied as Uttar Pradesh Municipal Corporation Act, 1959. Appellant got the right to collect these tax as per agreement entered by them with Nagar Palika Parishad Raibareli as per the pre-approved rates. These ncome could not have been subjected to service tax, Reference is made to decision of Mumbai Bench in case of Ideal Road Builders (P) Ltd. [2015 (40) S.T.R. 480 (Tri. - Mumbai)]
- In respect of demand of service tax on the basis of income reported in Profit and Loss Account, reliance is placed on the decisions in case of:
    - Firm Foundation & Housing (P) Ltd. [2018 (16) G.S.T.L. 209 (Mad.)]

  - Sigma Trade Wings [Final Order No 71658/2018 dated 17.07.2018 in ST/51726/2015]
  - Pappu Crane Services [Final Order No 72690/2018 dated 26.11.2018 in ST/70031/2016]
- Demand is also barred by limitation as appellant had bonafide belief that these incomes are not subject to levy of service tax. Reliance placed on the decisions:
  - Uniworth Textiles Ltd. [2013 (288) E.L.T. 161 (S.C.)]
  - Tarun Gupta [[Final Order No 59773-59774/2024 dated 04.12.2024 in ST/50544,51815/2017]

3.3 Authorized representative re-iterated the findings recorded in the impugned order.

4.1 We have considered the impugned order along with the submissions made in appeal and during the course of arguments.

4.2 Impugned order records the findings as follows:

"The fact of case in brief is that the party is registered under service tax for providing of advertisement agency services. On the basis of intelligence that the party is not discharging its Service Tax liability properly, a search was conducted against party, after detailed investigation, Show Cause Notice was issued and subsequently vide O-I-0 33/11-12 dated 29.02.2012 demand of Rs 1,78,36,694/- was confirmed against the party. Feeling aggrieved with the said order the party preferred an appeal before Hon'ble CESTAT, only on the plea that party has suffered entire sales tax on sale of Hoardings banners & it is settled law that once the sales tax discharged by them, they cannot be asked to pay Service Tax on the same value.

Hon'ble CESTAT have examined the defence taken by the party & observed that Adjudicating Authority has failed to reconcile the figures between ST-3 Return & Sales Tax Return & if there had been a thread bare analysis of this fact such a huge demand would not have arisen.

At the same time Hon'ble CESTAT has also directed that while Adjudicating the case Deptt., should not hesitate to *call the figures from sales tax authorities to ascertain the actual figure related to sale of goods.*

20. Thus I have come to conclusion that the limited issue in this remand case has to be decided that whether party has sold their goods to their client and discharge their vat/sales tax liability against such sale of goods.

Party in their defence reply submitted that they have sold the goods amounting to Rs. 102607560/- during the disputed period i.e. 2004-05 to 2009-10.

Party vide their letter dated 08.02.2014 has intimated their date of registration, TIN No. and ward no. where they are registered for the purpose of trade tax.

To verify the contention of the party a correspondence dated 10.12.2014 was made with The Assistant Commissioner of Sales Tax/Commercial Tax, Lucknow, wherein it has been intimated to them that a case in respect of M/s. Sigma Trade Wings, D-165, Faizabad Road, Indira Nagar, Lucknow, is under process of adjudication, and Trade Tax returns pertaining to the period of financial years 2004-05 to 2009-10, are required for verification of facts and figures regarding sale made by them.

Accordingly, he was requested to furnish copies of Trade Tax returns/ annual financial details filed by M/s. Sigma Trade Wings, D-165, Faizabad Road, Indira Nagar, Lucknow/ accessed by his goodself, for the period of financial years 2004-05, 2005-06, 2006-07, 2007-08, 2008-09 & 2009-10.

21. The Deputy Commissioner, Commercial Tax/ Trade Tax vide his letter dated 07.02.2015 has enclosed the acknowledgement and self assessment of annual tax return filed by the party for the Financial year 2007-08 to 2009-10 and also intimated that desired documents for the period 2004-05 to 2006-07 are not available with them and they would provide the same as soon as they locate the said documents.

On the perusal of the documents submitted by the Commercial Tax department it is quite evident that they have not discharged any Sales Tax liability during the Financial Year 2007-08 to 2009-10.

22. In light of above letter, a letter dated 25.02.2015 was sent to the party to explain that in your defence reply dated 11.11.2014, you have filed Sales Tax Assessment Order for the period of 2004-05 to 2009-10 as well as the certificate of Shri Kamod & Associates, C.A. wherein he has certified that your firm has sold the goods for Rs. 10,26,07,560/- and Sales Tax amounting to Rs. 1,25,59,167/- has also been deposited for the period of 2004-05 to 2009-10, out of which Sales Tax of Rs. 99,09,591/- pertains to the period of 2007-08 to 2009-10.

On being inquired of, the Deputy Commissioner (Sale Tax), Khand-21, Lucknow vide his letter dated 07.02.2015 has categorically informed that no trade tax has been deposited by your firm for the period of 2007-08 to 2009-10.

Therefore, it appears that you have misstated the fact at the time of adjudication.

As per directions of the Hon'ble CESTAT, you are requested to explain the discrepancies between your claim and the information recorded in the Trade Tax Department by 04.03.2015 and if you fail to explain the anomaly noticed by documentary evidences, in that situation it would be safely assumed that you have nothing to say on this issue. Accordingly, the figures provided by the Sales Tax Department would be considered as final while adjudicating the case.

Party vide letter dated 04.03.2015 has sought 15 days time to submit their clarification on this issue. Party even did not file their defense on this account even after lapse of 15 days.

Therefore, I am of the opinion that the main plea taken by the party before Hon'ble CESTAT that they have sold the goods and discharge the vat on that amount is not supported by the documentary proof. On the contrary, the letter of Deputy Commissioner, Commercial tax specifically narrate that the party has not paid any VAT amount during the period 2007-08 to 2009-10.

Accordingly, I am of the view that party has misstated the fact before CESTAT and therefore it cannot be accepted that party has sold any goods during providing of advertisement agency services and thus the benefit of reduction of amount related to sale of the goods cannot be extended in lieu of their claim i.e. they have sold the goods amounting to Rs. 10,26,07,560/-. 23. In their defense reply party has also contended that the demand on miscellaneous income, amount shown as sundry debtors has been confirmed against them. I have examined the issue and observed that my predecessor has discussed all these issues in detail while passing the order in original and I am convinced that the O-I-O has been passed as per established rule on these issues.

It is worth mentioning here that party has not brought any fresh documents/evidence on this account before me to reconsider this issue.

In short, I have found no infirmity in the order in original to intervene and therefore I pass the following order."

4.3 We find that matter has been decided in the de novo proceedings after being remanded back by the tribunal vide Final Order No ST/A55630/2013 dated 19.02.2013. We have reproduced the observations made by the CESTAT while remanding the matter back to adjudicating authority in para 2.10. From the perusal of the observations made by the CESTAT while remanding the matter back to adjudicating authority for reconsideration tribunal had set aside the earlier order in original dated 29.02.2012. The observations made in para 3 of the tribunal order are reproduced below:

"We notice that had there been a thread bare analysis of the facts, figures and evidence, such a huge demand would not have arisen. Therefore, without keeping the matter pending in the Tribunal, we remand the matter to the Ld. Adjudicating Authority to consider grievance of Revenue properly and also the pleadings of the appellant testing the same with evidence. That authority should not hesitate to even call for the figures from the sales tax authority to find out the figures disclosed in ST-3 return whether agreed with the figures in the Sales Tax Return filed for the relevant period. If there is any discrepancy, the appellant should be given an opportunity to explain."

4.4 From the observations made it is evident that tribunal had found the order dated 29.02.2012 not sufficient in analyzing the evidences and record and have remanded the matter back. By remanding the matter tribunal has set aside the order dated 29.02.2012, and in the impugned order, the adjudicating authority without going into the analysis of facts, figures and evidences has pre-functorily agreed with the finding recorded in the earlier order which has been set aside. Such an approach show total non application of mind by the adjudicating authority while passing the impugned order. The impugned order not only being contrary to the principles of judicial hierarchy is totally a non speaking order.

4.5 We also observe that the impugned order fails to record any findings on the submissions made by the appellant in the remand proceedings and have not even recorded any findings on the decisions which tribunal has directed the adjudicating authority to take into consideration. Such an order which do not considers the submissions made is in violation of principle of natural justice and needs to be set aside for this reason itself.

4.6 In case of Kranti Associates Pvt Ltd. vs Masood Ahmed Khan [2011 (273) E.L.T. 345 (S.C.)] Hon'ble Supreme Court has observed as follows:

"15. The necessity of giving reason by a body or authority in support of its decision came up for consideration before

this Court in several cases. Initially this Court recognized a sort of demarcation between administrative orders and quasi-judicial orders but with the passage of time the distinction between the two got blurred and thinned out and virtually reached a vanishing point in the judgment of this Court in A.K. Kraipak and Others v. Union of India and Others reported in AIR 1970 SC 150.

16. In Kesava Mills Co. Ltd. and Another v. Union of India and Others reported in AIR 1973 SC 389, this Court approvingly referred to the opinion of Lord Denning in Rigina v. Gaming Board Exparte Benaim [(1970) 2 WLR 1009] and quoted him as saying "that heresy was scotched in Ridge and Boldwin, 1964 AC 40".

17. The expression 'speaking order' was first coined by Lord Chancellor Earl Cairns in a rather strange context. The Lord Chancellor, while explaining the ambit of Writ of Certiorari, referred to orders with errors on the face of the record and pointed out that an order with errors on its face, is a speaking order. (See 1878-97 Vol. 4 Appeal Cases 30 at 40 of the report)

18. This Court always opined that the face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak. It must not be like the 'inscrutable face of a Sphinx'.

19. In the case of Harinagar Sugar Mills Ltd. v. Shyam Sunder Jhunjhunwala and Others, AIR 1961 SC 1669, the question of recording reasons came up for consideration in the context of a refusal by Harinaqar to transfer, without giving reasons, shares hold by Shyam Sunder. Challenging such refusal, the transferee moved the High Court contending, inter alia, that the refusal is mala fide, arbitrary and capricious. The High Court rejected such pleas and the transferee was asked to file a suit. The transferee filed an appeal to the Central Government under Section 111 Clause (3) of Indian Companies Act, 1956 which was dismissed. Thereafter, the son of the *original transferee filed another application for transfer of his shares which was similarly refused by the Company. On appeal, the Central Government quashed the resolution passed by the Company and directed the Company to register the transfer. However, in passing the said order. Government did not give any reason. The company challenged the said decision before this Court.*

20. The other question which arose in Harinagar (supra) was whether the Central Government, in passing the appellate order acted as a tribunal and is amenable to Article 136 jurisdiction of this Court.

21. Even though in Harinagar (supra) the decision was administrative, this Court insisted on the requirement of recording reason and further held that in exercising appellate powers, the Central Government acted as a tribunal in exercising judicial powers of the State and such exercise is subject to Article 136 jurisdiction of this Court. Such powers, this Court held, cannot be effectively exercised if reasons are not given by the Central Government in support of the order (Para 23, page 1678-79).

22. Again in the case of Bhagat Raja v. Union of India and Others, AIR 1967 SC 1606, the Constitution Bench of this Court examined the question whether the Central Government was bound to pass a speaking order while dismissing a revision and confirming the order of the State Government in the context of Mines and Minerals (Regulation and Development) Act, 1957, and having regard to the provision of Rule 55 of Mineral and Concessions Rules. The Constitution Bench held that in exercising its power of revision under the aforesaid Rule the Central Government acts in a quasi-judicial capacity (See para 8 page 1610). Where the State Government gives a number of reasons some of which are good and some are not, and the Central Government merely endorses the order of the State Government without specifying any reason, this Court, exercising its jurisdiction *under Article 136, may find it difficult to ascertain which are the 'grounds on which Central Government upheld the order of the State Government (See para 9 page 1610). Therefore, this Court insisted on reasons being given for the order.*

23. In M/s. Mahabir Prasad Santosh Kumar v. State of U.P and Others, AIR 1970 SC 1302, while dealing with U.P. Sugar Dealers License Order under which the license was cancelled, this Court held that such an order of cancellation is quasi-judicial and must be a speaking one. This Court further held that merely giving an opportunity of hearing is not enough and further pointed out where the order is subject to appeal, the necessity to record reason is even greater. The learned Judges held that the recording of reasons in support of a decision on a disputed claim ensures that the decision is not a result of caprice, whim or fancy but was arrived at after considering the relevant law and that the decision was just. (See para 7 page 1304).

24. In the case of M/s. Travancore Rayons Ltd. v. The Union of India and Others. AIR 1971 SC 862 = 1978 (2) E.L.T. (J378) (S.C.), the Court, dealing with the revisional jurisdiction of the Central Government under the then Section 36 of the Central Excise and Salt Act, 1944, held that the Central Government was actually exercising judicial power of the State and in exercising judicial power reasons in support of the order must be disclosed on two grounds. The first is that the person aggrieved gets an opportunity to demonstrate that the reasons are erroneous and secondly, the obligation. to record reasons operates as a deterrent against possible arbitrary action by the executive authority invested with the judicial power (See para 11 page 865-866).

25. In M/s. Woolcombers of India Ltd. v. Woolcombers Workers Union and Another, AIR 1973 SC 2758, this Court while considering an award under Section 11 of Industrial Disputes Act insisted on the need of giving reasons in support of conclusions in the Award. The Court held that *the very requirement of giving reason is to prevent unfairness or arbitrariness in reaching conclusions. The second principle is based on the jurisprudential doctrine that justice should not only be done, it should also appear to be done as well. The learned Judges said that a just but unreasoned conclusion does not appear to be just to those who read the same. Reasoned and just conclusion on the other hand will also have the appearance of justice. The third ground is that such awards are subject to Article 136 jurisdiction of this Court and in the absence of reasons, it is difficult for this Court to ascertain whether the decision is right or wrong (See para 5 page 2761).*

26. In Union of India v. Mohan Lal Capoor and Others, AIR 1974 SC 87, this Court while dealing with the question of selection under Indian Administrative Service/Indian Police Service (Appointment by Promotion Regulation) held that the expression "reasons for the proposed supersession" should not be mere rubber stamp reasons. Such reasons must disclose how mind was applied to the subject matter for a decision regardless of the fact whether such a decision is purely administrative or quasi-judicial. This Court held that the reasons in such context would mean the link between materials which are considered and the conclusions which are reached. Reasons must reveal a rational nexus between the two (See para 28 page 98).

27. In Siemens Engineering and Manufacturing Co. of India Ltd. v. The Union of India and Another, AIR 1976 SC 1785, this Court held that it is far too well settled that an authority in making an order in exercise of its quasi-judicial function, must record reasons in support of the order it makes. The learned Judges emphatically said that every quasi-judicial order must be supported by reasons. The rule requiring reasons in support of a quasi-judicial order is, this Court held, as basic as following the principles of natural justice. And the rule must be observed in its proper spirit. A more pretence of compliance would not satisfy the requirement of law (See para 6 page 1789).

28. In Smt. Maneka Gandhi v. Union of India and Anr., AIR 1978 SC 597, which is a decision of great jurisprudence significance in our Constitutional law. Chief Justice Beg, in a concurring but different opinion held that an order impounding a passport is a quasi-judicial decision (Para 34, page 612). The learned Chief Justice also held when an administrative action involving any deprivation of or restriction on fundamental rights is taken, the authorities must see that justice is not only done but manifestly appears to be done as well. This principle would obviously demand disclosure of reasons for the decision.

29. Justice Y.V. Chandrachud (as His Lordship then was) in a concurring but a separate opinion also held that refusal to disclose reasons for impounding a passport is an exercise of an exceptional nature and is to be done very sparingly and only when it is fully justified by the exigencies of an uncommon situation.

30. The learned Judge further held that law cannot permit any exercise of power by an executive to keep the reasons undisclosed if the only motive- for doing so is to keep the reasons away from judicial scrutiny. (See para 39 page 613).

31. In Rama Varma Bharathan Thampuran v. State of Kerala and Ors., AIR 1979 SC 1918, Justice V.R. Krishna Iyer speaking for a three-Judge Bench held that the functioning of the Board was quasi-judicial in character. One of the attributes of quasi-judicial functioning is the recording of reasons in support of decisions taken and the other requirement is following the principles of natural justice. Learned Judge held that natural justice requires reasons to be written for the conclusions made (See para 14 page 1922).

32. In Gurdial Singh Fijji v. State of Punjab and Ors., (1979) 2 SCC 368, this Court, dealing with a service matter, relying on the ratio in Capoor (supra), held that "rubber-stamp reason" is not enough and virtually quoted the observation in Capoor (supra) to the extent that *reasons "are the links between the materials on which certain conclusions are based and the actual conclusions." (See para 18 page 377).*

33. In a Constitution Bench decision of this Court in Shri Swamiji of Shri Admar Mutt etc. etc. v. The Commissioner, Hindu Religious and Charitable Endowments Dept. and Ors., AIR 1980 SC 1, while giving the majority judgment Chief Justice Y.V. Chandrachud referred to Broom's Legal Maxims (1939 Edition, page 97) where the principle in Latin runs as follows :

> *"Ces-sante Ratione Legis Cessat Ipsa Lex"*

34. The English version of the said principle given by the Chief Justice is that :

> *"Reason is the soul of the law, and when the reason of any particular law ceases, so does the Law itself." (See para 29 page 11)*

35. In M/s. Bombay Oil Industries Pvt. Ltd. v. Union of India and Others, AIR 1984 SC 160, this Court held that while disposing of applications under Monopolies and Restrictive Trade Practices Act the duty of the Government is to give reasons for its order. This court made it very clear that the faith of the people in administrative tribunals can be sustained only if the tribunals act fairly and dispose of the matters before them by well considered orders. In saying so, this Court relied on its previous decisions in Capoor (supra) and Siemens Engineering (supra), discussed above.

36. In Ram Chander v. Union of India and Others, AIR 1986 SC 1173, this Court was dealing with the appellate provisions under the Railway Servants (Discipline and Appeal) Rules, 1968 condemned the mechanical way of dismissal of appeal in the context of requirement of Rule 22(2) of the aforesaid Rule. This Court held that the word "consider" occurring to the Rule 22(2) must mean the Railway Board shall duly apply its mind and give reasons for its decision. The learned Judges held that the duty to give reason is an incident of the judicial process and *emphasized that in discharging quasi-judicial functions the appellate authority must act in accordance with natural justice and give reasons for its decision (Para 4, page 1176).*

37. In M/s. Star Enterprises and Others v. City and Industrial Development Corporation of Maharashtra Ltd. and Others, (1990) 3 SCC 280, a three-Judge Bench of this Court held that in the present day set up judicial review of administrative action has become expansive and is becoming wider day by day and the State has to justify its action in various field of public law. All these necessitate recording of reason for executive actions including the rejection of the highest offer. This Court held that disclosure of reasons in matters of such rejection provides an opportunity for an objective review both by superior administrative heads and for judicial process and opined that such reasons should be communicated unless there are specific justification for not doing so (see Para 10, page 284-285).

38. In Maharashtra State Board of Secondary and Higher Secondary Education v. K.S. Gandhi and Others, (1991) 2 SCC 716, this Court held that even in domestic enquiry if the facts are not in dispute non-recording of reason may not be violative of the principles of natural justice but where facts are disputed necessarily the authority or the enquiry officer, on consideration of the materials on record, should record reasons in support of the conclusion reached (see para 22, pages 738-739).

39. In the case of M.L. Jaggi v. Mahanagar Telephones Nigam Limited and Others, (1996) 3 SCC 119, this Court dealt with an award under Section 7 of the Telegraph Act and held that since the said award affects public interest, reasons must be recorded in the award. It was also held that such reasons are to be recorded so that it enables the High Court to exercise its power of judicial review on the validity of the award, (see para 8, page 123).

40. In Charan Singh v. Healing Touch Hospital and Others, AIR 2000 SC 3138, a three-Judge Bench of this Court, dealing with a grievance under CP Act, held that the authorities under the Act exercise quasi-judicial powers for redressal of consumer disputes and it is, therefore, imperative that such a body should arrive at conclusions based on reasons. This Court held that the said Act, being one of the benevolent pieces of legislation, is intended to protect a large body of consumers from exploitation as the said Act provides for an alternative mode for consumer justice by the process of a summary trial. The powers which are exercised are definitely quasi-judicial in nature and in such a situation the conclusions must be based on reasons and held that requirement of recording reasons is "too obvious to be reiterated and needs no emphasizing". (See Para 11, page 3141 of the report)

41. Only in cases of Court Martial, this Court struck a different note in two of its Constitution Bench decisions, the first of which was rendered in the case of Som Datt Datta v. Union of India and Others, AIR 1969 SC 414, Mr. Justice Ramaswami delivering the judgment for the unanimous Constitution Bench held that provisions of Sections 164 and 165 of the Army Act do not require an order confirming proceedings of Court Martial to be supported by reasons. The Court held that an order confirming such proceedings does not become illegal if it does not record reasons. (Para 10, page 421- 422 of the report).

42. About two decades thereafter, a similar question cropped up before this Court in the case of S.N. Mukherjee v. Union of India, AIR 1990 SC 1984. Aunanimous Constitution Bench speaking through Justice S.C. Agrawal confirmed its earlier decision in Som Datt (supra) in para 47 at page 2000 of the report and held reasons are not required to be recorded for an order confirming the finding and sentence recorded by the Court Martial.

43. It must be remembered in this connection that the Court Martial as a proceeding is sui generis in nature and the Court of Court Martial is different, being called a Court of Honour and the proceeding therein are slightly different from other proceedings. About the nature of Court Martial and its proceedings the observations of Winthrop in Military Law and Precedents are very pertinent and are extracted herein below :

> *"Not belonging to the judicial branch of the Government, it follows that courts-martial must pertain to the executive department; and they are in fact simply instrumentalities of the executive power, provided by Congress for the President as Commander-in-Chief, to aid him in properly commanding the Army and Navy and enforcing discipline therein, and utilized under his orders or those of his authorized military representatives."*

44. Our Constitution also deals with Court Martial proceedings differently as is clear from Articles 33, 136(2) and 227(4) of the Constitution.

45. In England there was no common law duty of recording of reasons. In Marta Stefan v. General Medical Council, (1999) 1 WLR 1293, it has been held, "the established position of the common law is that there is no genera], duty imposed on our decision makers to record reasons". It has been acknowledged in the Justice Report, Administration Under Law (1971) at page 23 that "No single factor has inhibited the development of English administrative law as seriously as the absence of any general obligation upon public authorities to give reasons for their decisions".

46. Even then in the case of R v. Civil Service Appeal Board, ex parte Cunningham reported in (1991) 4 All ER 310, Lord Donaldson, Master of Rolls, opined very strongly in favour of disclosing of reasons in a case where the Court is acting in its discretion. The learned Master of Rolls said :

> *"..It is a corollary of the discretion conferred upon the board that it is their duty to set out their reasoning in sufficient form to show the principles on which they have proceeded. Adopting Lord Lane CJ's observations (in R v. Immigration Appeal Tribunal, ex p Khan (Mahmud) [1983] 2 All ER 420 at 423, (1983) QB 790 at 794-795), the reasons for the lower amount is not obvious. Mr. Cunningham is entitled to know, either expressly or inferentially stated, what it was to which the board were addressing their mind in arriving at their conclusion. It must be obvious to the board that Mr. Cunningham is left with a burning sense of grievance. They should be sensitive to the fact that he is left with a real feeling of injustice, that having been found to have been unfairly dismissed, he has been deprived of his just desserts (as he sees them)".*

47. The learned Master of Rolls further clarified by saying :

> *"..thus, in the particular circumstances of this case, and without wishing to establish any precedent whatsoever, I am prepared to spell out an obligation on this board to give succinct reasons, if only to put the mind of Mr. Cunningham at rest. I would therefore allow this application."*

48. But, however, the present trend of the law has been towards an increasing recognition of the duty of Court to give reasons (See North Range Shipping Limited v. Seatrans Shipping Corporation, (2002) 1 WLR 2397). It has been acknowledged that this trend is consistent with the development towards openness in Government and judicial administration.

49. In English v. Emery Reimbold and Strick Limited, (2002) 1 WLR 2409, it has been held that justice will not be done if it is not apparent to the parties why one has won and the other has lost. The House of Lords in Cullen v.

Chief Constable of the Royal Ulster Constabulary, (2003) 1 WLR 1763, Lord Bingham of Cornhill and Lord Steyn, on the requirement of reason held, "First, they impose a discipline ... which may contribute to such decisions being considered with care. Secondly, reasons encourage transparency ... Thirdly, they assist the Courts in performing their supervisory function if judicial review proceedings are launched." (Para 7, page. 1769 of the report)

50. The position in the United States has been indicated by this Court in S.N. Mukherjee (supra) in paragraph 11 at page 1988 of the judgment. This Court held that in the United States the Courts have always insisted on the recording of reasons by administrative authorities in exercise of their powers. It was further held that such recording of reasons is required as "the Court cannot exercise their duty of review unless they are advised of the considerations underlying the action under review". In S.N. Mukherjee (supra) this court relied on the decisions of the U.S. Court in Securities and Exchange Commission v. Chenery Corporation, (1942) 87 Law Ed 626 and John T. Dunlop v. Walter Bachowski, (1975) 44 Law Ed 377 in support of its opinion discussed above.

51. Summarizing the above discussion, this Court holds :

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) *Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.*

(f) *Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*

(g) *Reasons facilitate the process of judicial review by superior Courts.*

(h) *The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the Life blood of judicial decision making justifying the principle that reason is the soul of justice.*

(i) *Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*

(j) *Insistence on reason is a requirement for both judicial accountability and transparency.*

(k) *If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*

(l) *Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.*

(m) *It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but* *also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).*

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya v. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

52. For the reasons aforesaid, we set aside the order of the National Consumer Disputes Redressal Commission and remand the matter to the said forum for deciding the matter by passing a reasoned order in the light of the observations made above. Since some time has elapsed, this Court requests the forum to decide the matter as early as possible, preferably within a period of six weeks from the date of service of this order upon it."

4.7 Thus, we set aside the impugned order and remand the matter back to adjudicating authority for reconsideration of the matter in light of the observations made in the Final Order No. ST/A/55630/2013 dated 19.02.2013. We make it clear and direct the adjudicating authority to reconsider the matter threadbare on the basis of facts, figures, evidences and submissions that will be made by the appellant before him.

5.1 Appeal is allowed and matter remanded back to original authority for de novo adjudication.

5.2 As the matter is quite old we would direct the adjudicating authority to decide the matter in remand proceedings within three months of receipt of this order following the principles of natural justice.

(Order pronounced in open court on-01 September, 2026)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

akp