

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE**

Appeal(s) Involved:

ST/257/2008-DB

[Arising out of Order-in-Original No. 09/2008 dated
17/03/2008 passed by the Commissioner of Central Excise &
Customs, Thiruvananthapuram]

Bharat Sanchar Nigam Ltd.

R.T.P Building, Luke's Lane,
Pulimoodu, Thiruvananthapuram.

Appellant(s)

Versus

**Commissioner of Central Excise,
Customs and Service Tax
Trivandrum**

T.C. No. 26/334 (1&2),
I.C.E Bhavan, Press Club Road,
Trivandrum – 695 001
Kerala

Respondent(s)

Appearance:

Shri Raghavendra, Advocate

For the Appellant

Shri N. Jagdish, Superintendent (AR)

For the Respondent

Date of Hearing: 08/02/2018

Date of Decision: 08/02/2018

CORAM:

HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT

HON'BLE MR. V. PADMANABHAN, TECHNICAL MEMBER

Final Order No. 20162 / 2018

Per : JUSTICE (DR.) SATISH CHANDRA

The present appeal is filed against Order-in-Original No. 09/2008
dated 17/03/2008.

2. Heard Shri Raghavendra, learned counsel and Shri N. Jagadish,
Superintendent (AR).

3. After hearing both sides and on perusal of record, it appears that the original authority in para 15 has observed that the representative of the assessee who appeared for personal hearing assured to produce documentary evidence before 31st January, 2008 to prove the licit nature of the claim of surcharge deducted from the value of the original return filed; receipt of belated payments attributable to periods when the tax rates were 5% and 8% and appropriate payment of interest for delayed payment of tax on April/May 2005.

4. During the course of arguments, the learned counsel submits that the then advocate has not produced the documents for the reasons best known to him. He assured to produce the said document during the next hearing but the learned DR submits that this is not the proper forum to examine those documents.

5. In view of the above, we set aside the impugned order and remand the matter to the original authority to decide the issue afresh after examining the entire evidence but after providing reasonable opportunity to the appellant. Fresh evidence may be admitted as per law. In the result, the appeal is allowed by way of remand.

(Order Dictated in Open Court on **08/02/2018**)

(V. PADMANABHAN)
TECHNICAL MEMBER

(JUSTICE (DR.) SATISH CHANDRA)
PRESIDENT

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