

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 60654 of 2023

[Arising out of Order-in-Appeal/Original No. - dated - passed by the Commissioner (Appeals), -]

M/s Malke Estates Pvt Ltd
SCO 147-148, Sector 9C, Chandigarh 160017

.....Appellant

VERSUS

**Commissioner of Central Excise, Goods
& Service Tax, Chandigarh**
Revenue Building, Sector 17-C, Chandigarh

.....Respondent

APPEARANCE:

None for the Appellant

Shri Goverdhan Dass Bansal, Authorized Representative for the
Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

FINAL ORDER NO. 61789/2025

DATE OF HEARING: 19.12.2025
DATE OF DECISION: 19.12.2025

The present appeal is directed against the impugned order dated 03.08.2023 passed by the Commissioner (Appeals), whereby the learned Commissioner (Appeals) has rejected the appeal of the appellant and upheld the Order-in-Original.

2. Briefly the facts of the present case are that on the basis of third-party data received from the income tax authorities for the

year 2016-17. It was observed that there were gross receipts for providing services as per the income tax data of the appellant, whereas, the appellant has not filed any service tax returns during the said period. Accordingly, a show cause notice was issued to the appellant for recovery of service tax of Rs. 8,03,597/- under Section 73 of the Finance Act, along with interest under Section 75 of the Act and penalties under Section 77 and 78 was also proposed and after following the due process, the adjudicating authority confirmed the demand of service tax of Rs. 8,03,597/- on the different amounts for the year 2016-17 along with interest and also imposed equal penalty under Section 78 and penalty of Rs.10,000/- under Section 77. Aggrieved by the said order, the appellant filed the appeal before the Commissioner (Appeals), who rejected the same.

3. None appeared on behalf of the appellant.

4. I have heard the learned authorized representative for the department and perused the material on record.

5. Since, the issue involved is in narrow compass and therefore, I proceed to decide the same on the basis of the material on record; the main grievance of the appellant is that the appellant has already discharged his service tax liability and therefore, the demand raised in the show cause notice is not sustainable and the second ground of the appellant is that the demand is upheld without determining the classification of services and therefore, the proceedings in the present case are void-ab-initio and the third grounds of appeal is that the impugned order has been passed in gross violations of

principles of natural justice. Further, Din mentioned on the show cause notice is incorrect and therefore, the proceedings are void-ab-initio.

6. Further, I find that the stand of the appellant is that the appellant has never been served with the copy of the show cause notice and hearing notices which is against the principle of natural justice, as the appellant has not been provided with the opportunity to present its case before the authorities. Further, the adjudicating authority has not provided any reason for not considering the service tax returns filed by the appellant. Further, I find that as per the settled judicial position, principles of natural justice are the minimum standards of fair decision making imposed on persons or bodies acting in a judicial or quasi-judicial capacity like the adjudicating authority; where the relevant person or body is required to determine questions of law or fact in circumstances, where its decisions will have a direct impact on the rights or legitimate expectation of the individuals concerned, there exists an implied obligation to observe the principle of natural justice. One of the shades of the rules of natural justice is to consider the reply and submissions made by the appellant. Consideration of the submissions made by the assessee leads to a fair opportunity to assessee and to present his own view point. In this regard, I may refer to the decisions of the ***Hon'ble Delhi High Court in the case of Nitesh Kumar Kedia v. CCE 2012 (284) ELT 321 (Del.)***, wherein, the Hon'ble Delhi High Court has held as under:

"10. We have examined the contentions and issues which were raised by the appellants and have been noticed by the Tribunal itself in the record of proceedings. We have also examined the written submissions which were filed by the appellants before the Tribunal and have been placed on record. We do not think the Tribunal was right in disposing of the appeal by recording the reasons given in paragraph 27, which according to us do not specifically deal and examine the contentions and issues raised. The order is virtually a non-speaking order and does not meet the requirements of law, what is mandated and required to be discussed and examined by the first appellate authority which is also the final fact finding authority. The contentions and issues raised by the appellants on facts and law have to be specifically examined, dealt with and considered. A speaking and reasoned order is required to be passed after referring to the evidence and material relied upon by the parties. We find that the appellate order passed by the Tribunal in the present case does not meet the prescribed and legal parameters. Accordingly, we answer the question of law mentioned above in negative, i.e., in favour of the appellants and against the Revenue. We pass an order of remit and the Tribunal will re-hear the arguments and thereafter pass a reasoned and speaking order as is mandated and required in law.

7. Further, I find that the only case of **Modipon Ltd. v. CCE, Meerut, 1996 (84) E.L.T. 323 (Tribunal)**, the Hon'ble Tribunal

held that if a plea raised in the reply to the show cause notice has not been considered, it would amount to violation of the principles of natural Justice. Whereas, in the present case, appellate authority has not considered the submissions made by the appellant on the same issue, therefore, entire proceedings stand vitiated.

8. Since the Order-in-Original was passed in violation of the principle of natural justice and therefore, I hold that the Order-In-Original as well as the Order-in-Appeal are violative of the principle of natural justice; hence, I set aside the impugned order and remand the mater back to the Original authority to pass a fresh order after affording an opportunity of hearing to the appellant and thereafter, pass a reasoned order in accordance with law within the period of two months from the date of receipt of the certified copy of this order.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)