CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

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REGIONAL BENCH – COURT NO. 1

Appeal No. E/60212/2019

[Arising out of OIA No. 243/CE/CGST-Appeal-Gurugram/SG/2018-19/2826 dated 13.12.2018 passed by the Commissioner (Appeals) of Central Excise and Service Tax, Gurugram]

Radha Krishna Industries
H. No. 604, Sec. 78, First Floor Faridabad
Haryana-121001 **: Appellant (s)**

Vs

CCE & ST-Faridabad-I
Block D, New CGO Complex, NH-IV
NIT, Faridabad, Haryana-121001 **: Respondent (s)**

APPEARANCE:
Shri N. K. Sharma, Advocate for the Appellant
Shri B. Ram, Authorised Representative for the Respondent

CORAM : HON'BLE Mr. ASHOK JINDAL, MEMBER (JINDAL)

FINAL ORDER No. 60472 / 2019

Date of Hearing:02.05.2019

Date of Decision:02.05.2019

Per : Mr. Ashok Jindal

The appellant is in appeal against the impugned order wherein the impugned order has been passed in remand proceedings.

2. The facts of the case are that the case has been booked against the appellant on the ground that they received only invoice without accompanying the goods, therefore, they are not entitled to avail cenvat credit. In earlier round of litigation, this Tribunal vide Final Order No. 60515/2017 dated 29.03.2017 remanded matter back to the adjudicating authority with direction to provide certain documents to the appellant, but, in remand proceedings, without supplying the
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documents, the impugned order has been passed. Against the said order, the appellant is before me.

3. Heard the parties and perused the records.

4. In earlier round of litigation, the following order has been passed by this Tribunal:-

> "Considering the fact that the appellant has asked to supply the relied upon documents and other documents to file reply to the show cause notice several times but the same has not been supplied to the appellant, there is in violation of principles of natural justice. In that circumstances, the impugned order is not sustainable in the eyes of law. The same is set-aside and the matter is remanded back to the adjudicating authority for fresh adjudication after supplying the documents as asked by the appellant in their letter dated 28.03.2013, and thereafter, to pass an order after following the principle of natural justice to pass an appropriate order in accordance with law."

Thereafter, in remand proceedings, no opportunity was given by the appellant to collect the documents or supplied those documents to the appellant by the adjudicating authority. As the show cause notice itself was sent to the appellant at his residential address at House No. 604, Sector 78, Faridabad whereas the letters were issued for hearing to the appellant at their factory/werehouse, which shows that it is non application of mind by the adjudicating authority while sending the notice of hearing. In that circumstances, I do not find any merit in the impugned order, the same are set-aside and the matter is remanded back to the adjudicating authority for fresh adjudication as directed by this Tribunal vide its order dated 29.03.2017. The adjudicating authority is directed to provide the documents as directed by this Tribunal to the appellant within 30 days at the address mentioned herein above and thereafter the appellant is directed to file their reply, if they desired to do so, within 30 days and thereafter the adjudicating authority shall fix a date of hearing with the appellant and thereafter, the adjudicating authority shall pass an appropriate order in accordance with law.

5. In view of this, the appeal is disposed of by way of remand.

(Dictated & pronounced in the Court)

(Ashok Jindal)
Member (Judicial)

G.Y.