

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
SOUTH ZONAL BENCH, CHENNAI**

**C/00312/2006**

[Arising out of Order-in-Appeal No.C.CUS.377/06, dated 26.05.2006 passed by the Commissioner of Customs (Appeals), Chennai]

M/s. A.L. SUDARSHAN CONSTRUCTION CO. LTD.

APPELLANT

Versus

COMMISSIONER OF CUSTOMS/CHENNAI

RESPONDENT

Appearance:

For the Appellant

Shri A.K. Jayaraj, Adv.

For the Respondent

Shri S. Nagalingam, AC (AR)

CORAM:

**Hon'ble Shri D.N. Panda, Judicial Member**

**Hon'be Shri Madhu Mohan Damodhar, Technical Member**

Date of hearing/decision **23-01-2017**

FINAL ORDER NO. 40521/2017

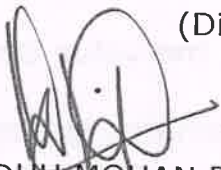
**Per D.N. Panda:**

Appellant submitted that the bill of entry in respect of import was filed declaring the goods as "New Telsmith Model 445 Gyra's Phere Crusher Complete". That was assessed and exemption was granted to the Crusher machine in terms of Notification No.21/2002-Cus. It was well within the knowledge of the Customs that the Crusher with parts came to India. The goods imported were not separated from each other for assessment and the value declared remained the same for the entire lot of import comprising complete crusher and parts thereof. When the audit made certain objections on 15.03.2002, demand notice was issued on 19.09.2002 disturbing the declared value and parts were alleged to be separate goods to be taxed separately.



2. Revenue says that parts are different from Complete Crusher. Because the parts were not subject to levy of duty, a show-cause notice was issued to bring that into the taxation.
3. Heard both sides and perused the records.
4. When attention to demand notice at page no.48 of the appeal folder was invited, on examination, it is found that the same does not reveal whether the appellant was granted any scope for defence against allegation above. It is well settled law that the show-cause notice should conspicuously show the reason of demand proposed to grant an opportunity to the noticee for raising defence, if any. Such course of natural Justice not being followed being guided by the ratio laid down in the apex court judgment in the cases of
  - (i) *Commissioner of Central Excise, Bangalore Vs. Brindavan Beverages (P) Ltd.* reported in 2007 (213) E.L.T. 487 (S.C.),
  - (ii) *Commissioner of Central Excise, Nagpur Vs. Ballarpur Industries Ltd.* reported in 2007 (215) E.L.T. 489 (S.C.),
  - (iii) *Commissioner of Central Excise Vs. Gas Authority of India Ltd.* reported in 2008 (232) E.L.T. 7 (S.C.) and
  - (iv) *Precision Rubber Industries (P) Ltd Vs. Commissioner of Central Excise Mumbai* reported in 2016 (334) E.L.T. 577 (S.C.) the adjudication is bound to be set aside. It is ordered accordingly.

(Dictated and pronounced in open court)

  
(MADHU MOHAN DAMODHAR)  
TECHNICAL MEMBER

  
(D.N. PANDA)  
JUDICIAL MEMBER

ksr



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