CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. I

Customs Appeal No. 40827 of 2014
(Customs Misc. Application No.40687 of 2025)

(Arising out of Order-in-Original No.23707/2014 dated 31.01.2014 passed by the Commissioner of Customs (Seaport-Export), Chennai)

Francis Goel **.... Appellant**
Proprietor of M/s Tek Chand International,
No. 301, Nitika Tower – 2,
Commercial Complex, Azadpur,
Delhi – 110 033.

VERSUS

Commissioner of Customs **...Respondent**
Custom House, No.60, Rajaji Salai,
Chennai 600 001.

APPEARANCE :

For the Appellant :Shri. T. Viswanathan, along with Shri. Yogesh Srinivasan, Shri. Rohan Muralidharan, Advocates for the Appellant

For the Respondent : Shri Anoop Singh, Authorised Representative

CORAM :

HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V, MEMBER (JUDICIAL)

FINAL ORDER No.41412/2025

DATE OF HEARING: 25.07.2025
DATE OF DECISION:02.12.2025

Per Mr. Ajayan T.V.

The appellant Francis Goel has challenged the impugned Order in Original No.23707/2014 dated 31-01-2014 whereby the adjudicating authority has rejected the transaction value declared by the appellant and consequent to re-determination under Customs Valuation (determination of price of imported goods) Rules 1988, demanded differential customs duties and anti-dumping duties with applicable interest and also imposed various penalties for the imports made through Custom House (Sea-Cargo), Chennai, ICD Tughlakabad, New Delhi, Air Cargo Import – General, New Delhi and JNPT, Nhava Sheva.

2. Brief facts are that the appellant is the sole proprietor of M/s Tek Chand International, Delhi and had imported silk fabrics from china through Seaport Chennai, ICD Delhi; and JNPT Nhava Sheva and IGI airport New Delhi and appears to have resorted to under valuation in respect of 153 bills of entry and over valuation in respect of 64 bills of entry in order to avoid customs duty and anti-dumping duty pursuant to an investigation, the Directorate of Revenue Intelligence, New Delhi conducted searches at various premises including the residential premises of one Shri Omkar Nath. A laptop belonging to the appellant was seized from the said residential premises and from which the investigating agency retrieved certain documents in the course of investigation. In the course of investigation statements dated 20-06-2007 was recorded from the appellant. From the investigations it appeared that the appellant had imported silk fabrics in the name of his firm from various Chinese suppliers from May 2005 onwards by resorting to both under valuation and over valuation of the silk fabrics imported from China during different periods. Investigation culminated from issuance of show cause notice dated 20.02.2009 alleging under valuation and over valuation of the imported goods during the relevant period. The Show Cause Notice principally relied on the statements of the appellant as well as the documents retrieved from the laptop of the appellant. The Show Cause Notice indicated the analysis remained on the documents/pages retrieved from the laptop of the appellant and the statements of the appellant and allege that M/s. Tek Chand International, Delhi appears to have imported the consignments of silk fabrics of Chinese origin since May 2005, by misdeclaration of the actual transaction value of the imported goods, with intent to evade the Customs Duty, and Antidumping Duty, as may be applicable and beneficial to him from time to time, by resorting to suppression of fact and willful mis-statement. Since, the actual price of these goods appear to different from the declared invoice price of the said articles at the time of their import in India, as evident from the facts and circumstances brought out by investigation in the foregoing paras, these goods appear to have been imported in contravention of Section 3 and 11 of Foreign Trade (Development & Regulation) Act, 1992, Rule 11 and Rule 14 of the Foreign Trade (Regulation) Rules, 1993, by mis-declaring the actual transaction value of the imported goods, by adopting fraudulent practices including false declarations

and submission of fake/bogus documents/invoices, for such imports. Therefore, these imported goods appear to be liable for confiscation under Section 111(d) of the Customs Act, 1962.

3. Citing various provisions of Customs Act 1962 and section 9A of the Customs Tariff Act 1975, it was alleged that the various acts of omission and commission of M/s. Tek Chand International, Delhi, as discussed hereinabove, have rendered the goods liable for confiscation under Section 111(d) and (m) of the Customs Act, 1962. These acts of omission and commission also amount to smuggling as per Section 2(39) of Customs Act, 1962. M/s. Tek Chand International, Delhi also appears to have concerned themselves in carrying, removing. depositing, keeping, selling, purchasing and dealing with the goods for which they knew and had reasons to believe that they were liable to confiscation under Section 111 of the Customs Act, 1962. Thus, M/s. Tek Chand International, Delhi appears to be liable for penalty under Section 112(a) and (b) of the Customs Act, 1962. By adopting aforementioned modus operandi of under-valuation, M/s. Tek Chand International, Delhi has evaded Customs Duty leviable on such imports of silk fabrics from China. The differential Customs Duty leviable after re-determining the correct transaction value works out to be evaded by of willful mis-statement way Rs.1,88,90,986/- which and suppression of facts. Accordingly, the differential duty amounting to Rs.1,88,90,986, is required to be recovered under Section 28(1) of the Customs Act, 1962, by invoking the proviso to said Section and Section 12 of the Customs Act 1962.

4. During the adjudication proceedings, the appellant through repeated correspondences requested for the laptop to be returned, so as to enable him to defend the allegations in the show cause notice. However the same was not returned and the impugned order was passed ex-parte. Aggrieved by the same the appellant having preferred this appeal is now this forum.

5. Shri. T. Viswanathan, along with Shri. Yogesh Srinivasan and Shri Rohan Muralidharan, Ld. Advocates appeared on behalf of the appellant and submitted as under:-

a) The laptop which has been the very basis on which the department has alleged undervaluation and overvaluation has not

been returned to the appellant and the same amounts to a clear violation of principles of natural justice.

b) The Appellant in the present case was in possession of a laptop which was seized by DRI. The DRI, has solely relied on partial data from the laptop to allege undervaluation and overvaluation in the SCN dated 20.02.2007.

c) In this regard, it is submitted that the Appellant vide letters dated 06.03.2009, 31.03.2009 26.08.2009, 15.10.2009 28.10.2009, 22.11.2010 12.12.2012 and 14.01.2014 requested for the return of the laptop. In respect of the letter dated 28.10.2009, the Appellant received a response from the department stating that the Relied-Upon Documents (RUDs) along with the Show Cause Notice have been provided and therefore, the present case will be adjudicated. This letter overlooks that the appellants requested for return of documents and laptop not relied upon in the SCN.

d) Despite multiple requests made by the Appellant for the return of the laptop, the same was not returned. As a result, the Appellant was unable to furnish an adequate response and accordingly, the case was adjudicated, and an ex-parte order was passed. It is submitted that the laptop has not been returned till date.

e) Further, post the order dated 28.04.2015 of the Hon'ble High Court, the Appellant had vide letter dated 07.09.2016 requested the Ld. Commissioner of Customs for the return of the laptop. In relation to the same, the Ld. Commissioner vide letter dated 30.09.2016 had forwarded the said request of the Appellant to the Office of DRI for necessary action.

f) However, even after the specific request made, the Laptop and the documents have not been provided till date.

g) The non-return of the laptop and denial of an opportunity of personal hearing clearly amounts to violation of principles of natural justice.

h) Reliance in this regard is placed on the decision of the Hon'ble Supreme Court in ***Swadeshi Cotton Mills v. Union of India,(1981) 1 SCC 664***, where the scope of 'natural justice' was discussed.

i) Further reliance is placed on the following decisions:

   i. Novamet Industries v. Union of India, 2008 (227) E.L.T. 363 (All.

   ii. Silicon Graphics System (India) Private Limited v. Union of India, 2006 (204) E.L.T. 247 (Bom.)

6. Shri. T. Vishwanathan, Ld. Counsel, further submitted that the additional grounds that have been urged in the miscellaneous application, were purely questions of law, based on the existing facts on record and go to the root of the matter. That it is a settled that question of law can be raised at any stage of the proceedings.

7. He would submit that the data retrieved from the laptop cannot be considered as admissible evidence. The Impugned Order in the present case has placed sole reliance upon the data/pages that has been allegedly retrieved from the seized laptop of the Appellant. It is this data that is relied on in the Impugned Order to reject the transaction value under Rule 10 of the CVR, 1988 and has redetermined the same under Rule 5, 6 and 8 of the CVR, 1988. Out of the 36 pages in total allegedly present inside the laptop, the Impugned Order has selectively relied upon certain pages viz., 01, 02, 13, 14, 15, 16, 17 and 18 to allege undervaluation and overvaluation of the subject goods. These selective pages allegedly retrieved from the laptop have also been included as a part of the relied upon documents to the SCN dated 20.02.2009.The Ld. Commissioner of Customs, at the time of passing the order, has failed to take into consideration the evidentiary value of such electronic data present inside the laptop.

8. Referring to Section 138C of the Customs Act, 1962 which deals with the admissibility of computer printouts as documents and evidence, he would urge that the said section is *pari materia* to 65A and 65B of the Indian Evidence Act, 1872 and Section 36B of the Central Excise Act, 1944. Sub-section (4) to Section 138C of the Customs Act provides that in any proceedings under this Act and the rules made thereunder, a certificate certifying any of the following things is required:

   a) identifying the document containing the statement and describing the manner in which it was produced;
   b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;
   c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate.

It is submitted that in the present case, no such certificate has been provided in respect of the pages relied upon by the department in the Impugned Order. Therefore, the conditions prescribed for admitting electronic evidence as mentioned under Section 138C have not been fulfilled. Reliance is placed on the following decisions, wherein it has been held that the absence of a certificate as specified under section 138C, secondary electronic evidence cannot be considered as admissible, *the decision of the Hon'ble CESTAT Chennai in* ***M/s. Media Graphics v. Commissioner of Customs, Chennai II, 2024 (8) TMI 728 – CESTAT Chennai,*** *the Hon'ble CESTAT New Delhi in* ***M/s. Composite Impex v. Principal Commissioner of Customs (Import), New Delhi, 2025 (5) TMI 1538 - CESTAT NEW DELHI.***

9. The following decisions were also relied on:

a) Anvar P.V. vs. P.K. Basheer, 2017 (352) ELT 416 (SC)
b) Kuber Impex Ltd. v. CC, Nhava Sheva – V, 2022 (9) TMI 24 - CESTAT MUMBAI
c) Jeen Bhavani International v. CC, Nhava Sheva – III, 2022 (8) TMI 237 - CESTAT MUMBAI
d) M/s. S. N. Agrotech v. CC, New Delhi, 2018 (4) TMI 856 - CESTAT NEW DELHI
e) Commissioner of Customs (Import) v. M/s. Adani Power Maharashtra Ltd., 2022 (7) TMI 837 - CESTAT MUMBAI
f) Junaid Kudia and Ors. vs. Commissioner of Customs Mumbai Import-II, 2023 (9) TMI 22 - CESTAT MUMBAI

10. Ld. Counsel submits that statement recorded from the appellant under section 108 are inadmissible, without examination of admissibility of the same by the adjudicating authority. Section 138B of the Customs Act, 1962 deals with admissibility of statements recorded before any custom officers during inquiry. On perusal of the said provision, it can be seen that the said section provides the process which an Adjudicating Authority is required to follow. The person who made the statement during inquiry has to first be examined as a witness in the case before the adjudicating authority; and thereafter, the adjudicating authority is to form the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice. Reliance is placed on the decisions in:

a) M/s. Geetham Steels Pvt. Ltd. v. Commissioner of GST and Central Excise, Salem, 2025 (3) TMI 1098 - CESTAT CHENNAI
b) PC Jain v. CC, Kolkata, 2025 (5) TMI 1626 - CESTAT KOLKATA,

c) Lilaram Arjandas c. CC, Kandla, 2024 (12) TMI 178 - CESTAT AHMEDABAD,
d) Arun Kumar v. CC, Mundra, 2024 (6) TMI 259 - CESTAT AHMEDABAD,
e) J & K Cigarettes Ltd. vs. Commissioner, 2009 (242) ELT 189 (Del.)
f) M/s. Surya Wires Pvt. Ltd. v. Principal Commissioner, CGST, 2025 (4) TMI 441 - CESTAT NEW DELHI and
g) Sh. Deept Swarup Agarwal v. CC, 2025 (6) TMI 613 – CESTAT New Delhi.

11. The Ld. Counsel, further urges that the manner of redetermination of the transaction value is contrary to the CVR, 1988. The impugned order has rejected the transaction value under CVR, 1988 and has redetermined the values of the subject goods by applying Rule 5,6, and 8 of the CVR, 1988, without taking into consideration the notes to Rule 5,6, and 8 which are provided under Rule 13 of the CVR, 1988. A perusal of the notes to Rule5 and 6 it can be seen that redetermination of the value of the goods can be done only basis the value of the goods already accepted under Rule 4. In the present case, there is no basis for the department to redetermine the value of the goods as they have not shown as to how they have redetermined basis the already accepted value. Furthermore, on a reading of notes to Rule 8, it can be seen that redetermination under Rule 8 is possible only on the basis of previously determined customs values and it also states that the method of valuation will be the same as that of Rule 4 to 7A with reasonable flexibility. However, in the present case, there is no discussion on the methodology in the impugned order as to how the value of the goods is redetermined under Rule 8 which is the residual method. The essence of application of Rule 5,6 and 8 is that the said redetermination must be basis the already accepted value.

12. The Ld. Counsel, points out that the period of dispute with respect to anti-dumping duty relates to June 2006 to May 2007 and drawing attention to the tabulation provided indicating the period during which ADD was levied, notification number and the date of expiry of the notification, it is submitted that from the table it can be seen that the during the period there was levy of provisional ADD and also there is a levy of Final ADD. He would submit that during the period

provisional ADD was levied at a higher rate than that of the Final ADD. Referring to Rule 21 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, it is submitted that sub-rule (2) of Rule 21 provided that when provisional ADD which was levied during the pendency of an ADD investigation is at a rate higher than that of the Final ADD which is imposed after the conclusion of an investigation, the differential duty which was paid during period of provisional ADD is required to be refunded to the Importer. Pointing out the tabulation purported to be examples on the basis of annexures to the SCN dated 20.02.2009, it is submitted that provisional ADD is levied at a higher rate than the Final ADD and although no duty has been discharged for the particular period, in light of the provisions of Rule 21, no differential duty can be demanded from the Appellant in the present case on the basis of the provisional ADD.

13. Ld. Counsel, further argues that in the present case at the time of adjudication both the ADD notifications had expired. It is also stated by the counsel that in the present case the provisional ADD expired in November 2006 and the Final ADD expired in 2011 and Final Order confirming the proposals in the SCN was passed only in 2014. Referring to Section 159A of the Customs Act, 1962, it is submitted that when a notification prescribes for payment of duty and the said notification is superseded or rescinded, then no obligation or liability can be incurred or accrued in this regard and therefore on application of the above section, ADD cannot be demanded in the present case.

14. Ld. Counsel further submits that no CVD is payable in the present case as the imported goods are exempt from payment of excise duty vide Notification No. 30/2004 – CE. Reliance is placed on the decisions in SRF Ltd v CC, 2015 (318) ELT 607 (SC) and Lily Foam Industries (P) Ltd v CCE, 1990 (46)ELT 462 (Tribunal) for the proposition that the assessee is entitled to question the rate of duty applied when the assessment is reopened and differential duty is demanded.

15. Ld. Counsel, placing reliance on the decision of the Bombay High Court in ***Mahindra & Mahindra v. Union of India, 2022 (10) TMI 212-Bombay High Court*** submits that in any event, the

confiscation, interest and penalty in respect of the CVD component cannot be imposed as there is no substantive provision under CTA charging/levying/imposing such liability. The appellant prayed that the appeal may be allowed with consequential relief

16. Shri Anoop Singh, Ld. Authorised Representative, appeared on behalf of the respondent and reiterated the findings in the impugned order in original. He submits that the Final ADD notifications are prospective in operation and hence the duty demand has been correctly confirmed by the Ld. Adjudicating Authority.

17. Heard both sides, perused the appeal records and the citation submitted.

18. At the outset, we find that indisputably the impugned order has been passed exparte. The appellant is stated to have made repeated requests vide letters dated 06.03.2009, 31.03.2009, 26.08.2009, 15.10.2009, 28.10.2009 and 22.11.2010 for return of the laptop seized from the appellant contending that they are necessary for defending the allegations in the Show Cause Notice dated 20.02.2009 since the SCN placed reliance upon partial data from the laptop. In the interregnum, the appellant had also approached the Settlement Commission however the said attempt did not fructify for various reasons. Once the settlement commission sent back the case to the jurisdictional commissioner for disposal as per the provisions of the Customs Act, 1962, the appellant continued to reiterate its request for return of the laptop and non relied upon documents. The adjudicating authority has also recorded that the appellant's request vide letter dated 26.08.09 when forwarded to the Deputy Director DRI was replied to by DRI vide their letter dated 13.11.2009 inter-alia conceded the reliance on copies of such pages retrieved from the laptop in the SCN and that the laptop and the non-relied upon documents would be returned to the appellant shortly. It is further seen that even after the impugned order has been passed, the appellant during the proceedings before this Tribunal had approached the Jurisdictional High Court being aggrieved by the amount of pre-deposit directed in the interim proceedings. The Hon'ble High Court vide its Judgement dated April 28, 2015 reported as ***Mr. Francis Goel Proprietor M/s. Tek Chand International v. Commissioner of Customs (Port-Export) & Customs, Excise and Service Tax, 2015 (5) TMI 294-MADRAS HIGH COURT***, while noting the

submissions of the appellant that the appellant had suffered great prejudice at the time of adjudication since most of the seized records including the laptop which contains relevant documents were not returned, pointed out that if the appellant makes a request for return of the seized records or the laptop, as the case may be, the Department may consider such a request on its own merits and in accordance with the procedure. Pursuant to the said directions, after a year and a half, the appellant again requested for return of the laptop and documents, which is yet again seen forwarded to the Additional Director General, DRI, New Delhi vide the letter dated 30.09.2016 of the Commissioner of Customs (Chennai IV), Custom House, Chennai. The appellant has stated that they are yet to receive these documents and laptop. Revenue too has not contended or shown otherwise.

19. In this context, we find that a coordinate bench of this Tribunal, in its decision in ***M/s. Rashmi Metaliks Limited, Unit-I v Commissioner of CGST & Cx. Haldia, 2021 (1) TMI 752-CESTAT KOLKATA*** has held that non return of documents even though non-relied upon constitutes non observance of the principles of natural justice. Relevant portions are as under:

> "10……Whatever be the reasons it appears, the appellants were not given requisite documents and enough time to represents themselves and the order was passed ex-parte.
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> 11. We find that Apex Court in the case of Kanwar Natwar Singh Vs Director of Enforcement held that
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> > *24 The concept of fairness may require the Adjudicating Authority to furnish copies of those documents upon which reliance has been placed by him to issue show cause notice requiring the noticee to explain as to why an inquiry under Section 16 of the Act should not be initiated. To this extent, the principles of natural justice and concept of fairness are required to be read into Rule 4(1) of the Rules. Fair procedure and the principles of natural justice are in built into the Rules. A noticee is always entitled to satisfy the Adjudicating Authority that those very documents upon which reliance has been placed do not make out even a prima facie case requiring any further inquiry. In such view of the matter, we hold that all such documents relied on by the Authority are required to be furnished to the noticee enabling him to show a proper cause as to why an inquiry should not be held against him though the Rules do not provide for the same. Such a fair reading of the provision would not amount to supplanting*

the procedure laid down and would in no manner frustrate the apparent purpose of the statute.

Part V: Duty of adequate disclosure

25 The real question that arises for consideration is whether the Adjudicating Authority even at the preliminary stage is required to furnish copies of all the documents in his possession to a noticee even for the purposes of forming an opinion as to whether any inquiry at all is required to be held. In this regard, learned senior counsel for the appellant pressed into service the doctrine of duty of adequate disclosure which according to him is an essential part of the principles of natural justice and doctrine of fairness. A bare reading of the provisions of the Act and the Rules do not support the plea taken by the appellants in this regard. Even the principles of natural justice do not require supply of documents upon which no reliance has been placed by the Authority to set the law into motion. Supply of relied on documents based on which the law has been set into motion would meet the requirements of principles of natural justice. No Court can compel the Authority to deviate from the statute and exercise the power in altogether a different manner than the prescribed one. As noticed, a reasonable opportunity of being heard is to be provided by the Adjudicating Authority in the manner prescribed for the purpose of imposing any penalty as provided for in the Act and not at the stage where the Adjudicating Authority is required merely to decide as to whether an inquiry at all be held into the matter. Imposing of penalty after the adjudication is fraught with grave and serious consequences and therefore, the requirement of providing a reasonable opportunity of being heard before imposition of any such penalty is to be met. In contradistinction, the opinion formed by the Adjudicating Authority whether an inquiry should be held into the allegations made in the complaint are not fraught with such grave consequences and therefore the minimum requirement of a show cause notice and consideration of cause shown would meet the ends of justice. A proper hearing always include, no doubt, a fair opportunity to those who are parties in the controversy for correcting or contradicting anything prejudicial to their view. Lord Denning has added : "If the right to be heard is to be a real right which is worth anything, it must carry with it a right in the accused man to know the case which is made against him. He must know what evidence is given and what statements have been made affecting him: and then he must be given a fair opportunity to correct or contradict them" [see Kanda v. Government of Malaya - [1962] AC 322].

11.2 We also find that Bombay High Court in the case of Silicon Graphics System (India) Private Limited Vs UOI (supra) held that

> *14. Vide circular dated 13th June, 1988 issued by the Department of Revenue, Ministry of Finance, Government of India, directions have been issued to the concerned officers in relation to the seized documents and return thereof, that in order to avoid the complaints, ordinarily, the department itself should take initiative to return the documents which are not considered useful from the angle of any proceedings to be initiated against the concerned parties. Un-relied documents in the showcause notice may not be relevant for the purposes of Revenue but may be of some relevance to the affected party in preparation of the reply to the show cause notice. It cannot be said that the request made by the petitioner for return of the un-relied documents to enable them to prepare their reply to the showcause notice was frivolous. If on 16th December, 2005, the petitioner is told to collect the un-relied documents on any working day, with prior appointment and the petitioner collects the un-relied documents on 21st December 2005 and seeks one month's time to reply to the show-cause notice and for postponement of the personal hearing that was fixed on 26th November, 2005, the request of the petitioner cannot be said to be unreasonable. Even if the Commissioner thought that the request of one month was unreasonable, at least a reasonable time could have been given to the petitioner to enable him to file reply to the show-cause notice and then the order-in-original could have been passed.*

11.3 We also find that the ratio of the decision of the above cases and others cited above, establish that non return of documents even though non-relied upon constitutes non observance of the principles of natural justice; it is not for the authority to decide whether such documents requested for are really required for filing their defence. We also find that CBEC, vide Circular issued under F. No. 224/37/2005CX.6 dated 24.12.2008, has specifically directed that "After issue of SCN, all un-relied upon documents must be returned to the person from whom it was received, within 15 days of issue of SCN."

20. It is settled that the Department cannot argue against its own circulars. In any event, it is entirely upto the assessee as to how, or in what manner, it seeks to utilise the non-relied upon documents as well as the evidence in the laptop, to construct its defence. Therefore, we are of the considered view that in the instant case there has been a violation of principles of natural justice to the detriment of the appellant impinging on the appellant's right to set up an effective and appropriate defence.

21. We also notice that the appellant has raised in the grounds of appeal before us as well as the miscellaneous application and its written submissions, several contentions touching upon merits and facts, including on applicability of the final Anti-Dumping Duty Notifications, factual disputes of some of the bills of entry having been subjected to examination and reassessed with loading of value at the time of import, mistakes in duty computation, the tenability of the reliance that can be placed on the liability admitted in the application to the settlement commission etc., all of which were not raised before the adjudicating authority.

22. We also find that there are grounds on procedural infirmities that have now been raised before us, such as non-examination of the person whose statements have been relied upon, non -certification of the documents obtained from the laptop etc., which were not contended before the adjudicating authority. Concededly, even according to the appellant the best possible defence has been hampered due to the non-returning of the laptop as well as the non-relied upon documents and return of these are an imperative for the appellant to put forth its defence on merits. In any event, it is not for this Tribunal to go into the initial factual matrix of such contentions, to come to any conclusion whether the evidence on these aspects are correct or not. Such an examination would be better left to the adjudicating authority who is equipped to look into the documents, records, other evidences, and any other relevant aspect. Only upon such verification of the documents and evidences that are required to be examined, can the adjudicating authority record a finding of fact on the dispute**,** and thereafter would determine the entitlements to the benefit of notification claimed and/or applying judicial precedents to the matter as may be presented.

23. Given the said circumstances, we are of the firm opinion that the laptop of the appellant and the non-relied upon documents are required to be returned forthwith to the appellant. The Department, if they so desire, and require the data for further legal proceedings, is at liberty to ensure that the contents of the laptop are duly downloaded securely and preserved as per the extant administrative guidelines and procedural directives in consonance with the applicable evidentiary rules and judicial pronouncements in this regard. We are

also of the considered view that the matter requires examination and reconsideration by the Jurisdictional Adjudicating Authority, and the interest of justice will be best served if the matter is remitted back for decision afresh. In a coordinate bench decision of this Tribunal, *vide* **M/s. Geetham Steels Pvt. Ltd. & Others Vs. Commissioner of GST and Central Excise, 2025 (3) TMI 1098 - CESTAT CHENNAI,** which has been relied upon by the appellant, authored by one of us, [Ajayan T.V., Member (Judicial)], this Tribunal has dwelt upon the procedure to be adopted by the Adjudicating Authority while adjudicating such matters. We direct the Adjudicating Authority to abide by the observations pertaining to adjudicatory process made in the case of M/s. Geetham Steels Pvt. Ltd. & Others *Supra* in the *denovo* adjudication. Accordingly, without expressing any opinion on the merits of the matter, we set aside the impugned order and keeping all issues open, remit the matter back to the jurisdictional Adjudicating Authority for *denovo* adjudication.

24. In as much as the issue pertains to a Show Cause Notice dated 20.02.2009, and the dispute involves an amount of Rs.4,64,30,012/- we direct the concerned authorities to return the non-relied upon documents and the laptop within thirty days of receipt of this order. We direct the appellant to file its written reply and evidence that it intends to rely on within further sixty days of receipt of the non-relied upon documents and the laptop. We direct the Adjudicating Authority to complete the *denovo* adjudication proceedings preferably within further ninety days from the date of receipt of the appellant's reply after the appellant has received the non-relied upon documents and the laptop. The appellant is also directed to obviate any kind of delay and to co-operate with the adjudicating proceedings. The miscellaneous application stands disposed of.

The appeal is allowed by way of remand in these terms.

(Order pronounced in open court on 02.12.2025)

(AJAYAN T.V.)
Member (Judicial)

(M. AJIT KUMAR)
Member (Technical)

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