CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH COURT NO. 3

EXCISE APPEAL NO. 55780 OF 2014

[Arising out of the Order-in-Original No. 15-2014-15, dated -27/08/2014, passed by Commissioner of Central Excise - DELHI-II]

SHIVAN CABLES **Appellant**

PLOT NO 32, BEHIND JULFEY BENGAL,
DILSHAD GARDEN INDUSTRIAL AREA
NEW DELHI

Vs.

COMMISSIONER OF CENTRAL EXCISE-DELHI 2 **Respondent**

CENTRAL REVENUE BUILDING,
IP ESTATE, NEW DELHI-110002

Appearance:

Shri Srinivas Kotni and Ms. Urvashi Kalra, Advocate for the appellant
Shri Sanjay Kumar Singh, Authorised Representative for the respondent

CORAM:

HON'BLE MR P. VENKATA SUBBA RAO,MEMBER(TECHNICAL)
HON'BLE MR AJAY SHARMA,MEMBER(JUDICIAL)

Date of Hearing/Decision:25/04/2022

FINAL ORDER No. 50371 /2022

P. VENKATA SUBBA RAO:

1. Learned counsel for the appellant submits that a large number of documents were seized by the Department of which only some were relied upon as indicated in the Annexure IV to the show cause notice. The documents which were seized from the appellant but which were not relied upon have not been returned. Without the

help of those non-relied upon documents he will not be able to put forth a suitable defence against the show cause notice. Secondly, he submits that statements of two persons were relied upon in the show cause notice but those persons were neither examined under Section 9D nor were allowed to the cross examination the report of a hand writing expert was relied upon in the show cause notice but his cross-examination was not allowed despite specifically asking for the same. Therefore, he submits that there was gross violation of principles of natural justice. He further submits that even on merits the appellant has a very strong case. Learned Departmental Representative opposes the submissions made by the learned counsel and submits that the impugned order is fair and proper and calls for no interference.

2. After hearing both sides, we find that there was indeed violation of principles of natural justice in the matter. Accordingly, we remand the matter back to the original authority with following directions:

(i) All documents which were seized from the appellant and which were not relied upon must be returned to it;

(ii) If any statement made by any person before a Central Excise officer was relied upon in the show cause notice the procedure required under Section 9D of the Central Excise Act must be followed. If the appellant seeks the cross-examination of the persons who made such statements the same must also be allowed. The assessee should be allowed cross-examination of any expert whose opinion was relied upon in the show cause notice.

3. Without passing any remarks on merits of the appeal leaving the all issues open. The matter is remanded to the original authority as above to pass a reasoned order after giving an opportunity of being heard to the appellant.

(Order dictated and pronounced in open court)

(P. VENKATA SUBBA RAO)
MEMBER(TECHNICAL)

(AJAY SHARMA)
MEMBER(JUDICIAL)

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