

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH – COURT NO. IV

**Service Tax Miscellaneous Application No. 50313 of 2023
In
Service Tax Appeal No. 53668 of 2018**

(Arising out of Order-in-Appeal No. IND-EXCUS-000-APP-249-18-19 dated 26.07.2018 passed by the Commissioner (Appeals), Customs, CGST & Central Excise, Indore)

**Commissioner, CGST & Central Excise,
Indore (M.P.)**

Appellant

VERSUS

M/s Carry Fast Agency

Respondent

418, 419 Lasudia Mori, Dewas Naka,
Indore, M.P.

Appearance

Shri Harshvardhan, Authorized Representative – for the Appellant

Shri Krishan Garg, Chartered Accountant – for the Respondent

CORAM :

HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)

HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing/Decision : 28/07/2023

Miscellaneous Order No. 50220/2023

Dr. Rachna Gupta

Arguments on the miscellaneous application seeking an opportunity of being heard have been made by both the parties. It is mentioned for the respondent – applicant that the authorised counsel for the respondent was present on 25.01.2023. However, matter could not be taken up. It is also mentioned that the respondent has better merits of succeeding Commissioner (Appeals) has already granted the relief to the assessee. An opportunity for hearing is accordingly, requested. Learned Departmental Representative has mentioned that the matter was

heard after observing that the respondent is not appearing and has already been reserved for orders.

2. We observe from the record that on 27.03.2023 following order was passed:

"None is present for the assessee. Perusal of the appeal reveals that the appeal is pending consideration since the year 2018. There has been more than 10 occasions when the matter was listed. However, not even for once presence has been marked for the respondent – assessee. No further adjournment is deemed justified when assessee stands duly served. Resultantly, the arguments on behalf of appellant-department heard. Matter is **reserved for orders.**"

3. We also observe that on 25.01.2023 because of anti-dumping Bench being constituted, the Division Bench could not be constituted. In view thereof, the submission of the appellant about his presence on 25.01.2023 cannot be considered. However keeping in view the foremost Principle of Natural Justice namely *audi alteram partem* that is no one shall be condemned unheard and the opportunity of hearing is the first principle of natural justice, we hereby allow this miscellaneous application. Arguments on behalf of the respondent- assessee and in rebuttal of Departmental Representative at length heard. **Appeal is reserved for order.** One week time is given to the respondent to place on record both kinds of the contracts as the assessee - respondent was entering into with its service recipients.

(Dictated & pronounced in open Court)

(Dr. Rachna Gupta)
Member (Judicial)

(Hemambika R. Priya)
Member (Technical)

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