

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Customs Appeal No. 53188 of 2014 [SM]

[Arising out of Order-in-Original No. 20/NLB/Commr./I&G/2014 dated 15.03.2014 passed by the Commissioner of Customs (Import & General), New Delhi]

M/s. S.T. Enterprises

1st Floor, 6, DLF Industrial Area,
Moti Nagar, New Delhi - 110015

...Appellant

VERSUS

**Commissioner of Customs,
New Delhi (Import & General)**

New Custom House, Near IGI Airport,
New Delhi - 110037

...Respondent

APPEARANCE:

Shri Shubail Farook, Advocate for the Appellant

Shri Mahesh Bhardwaj, Authorized Representative for the Respondent

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

DATE OF HEARING: 15.05.2024

DATE OF DECISION: 15.05.2024

FINAL ORDER No. 58117/2024

DR. RACHNA GUPTA

The present appeal is an appeal assailing Order-in-Original No. 20/2014 dated 15.03.2014. It is observed that the appeal has successively been adjourned awaiting the decision of Hon'ble Apex Court in the Review Petition against its decision in the case of **Cannon India reported as 2021 (376) ELT 3 SC**. However, learned counsel for the appellant today has mentioned that in the present matter the original adjudicating authority has passed the impugned order without hearing the appellant and without considering their written reply. It is also brought to the notice by the learned counsel that the appeal by the co-noticee Shri Arun

Suri, proprietor/partner of M/s. Aryan Electronics has already been remanded back with the directions to give proper opportunity of hearing and to adjudicate the same *de novo* thereafter. Learned counsel has requested for present appeal to be remanded back and to be taken up by the original adjudicating authority itself. Learned counsel has also expressed his intention to forego the plea of jurisdiction on account of which the matter was repeatedly been adjourned.

2. Learned Department Representative has endorsed no objection if the said request of remanding the matter is accepted.

3. After hearing both the parties and perusing the Order-in-Original which has been challenged in the present appeal, it is observed that the said order has been passed as *de novo* decision pursuant to the directions in CESTAT Final Order No. 55937/2013 dated 18.03.2013. It is also observed that though the opportunities of personal hearing were given to the appellant but the appellant did not appear except that a reply vide letter dated 16.01.2014 was submitted by the advocate of the present appellant. The Same reply was filed even on behalf of the co-noticee M/s. Aryan Electronics and Shri Arun Suri, the proprietor thereof. It is the grievance of the appellant that the said reply has not been considered by the adjudicating authority. Keeping in view the said submission, the appeal of co-noticee Shri Arun Suri has already been remanded back to original adjudicating authority vide Final Order of this Tribunal bearing No. 50663/2023 dated 27.04.2023.

4. Keeping in view the identical facts and circumstances for both the matters and keeping in view the said decision dated 27.04.2023

and also to avoid any multiplicity of litigation and conflict of decisions with respect to one common show cause notice served upon three co-noticees that the request of appellant is hereby accepted. The appeal is remanded back to the authority below to decide the same afresh after giving opportunity of hearing to the appellant and after considering the submissions if any, made by the appellant. With these directions the appeal is hereby allowed by way of remand.

[Dictated and pronounced in the open Court]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

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