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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/650 /2006,733 /2006 - EX[DB] Date 01/01/2010

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S NARMADA SUGARS PVT. LTD.
SALICHAUKA DISTT.- NARSINGHPUR, MADHYA PRADESH

M/S NARMADA SUGARS PVT. LTD. Appellant
Vs
C.C.E BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1402-1403/ 2009 EX[DB]** dated 29-12-09 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   C.C.E BHOPAL
   HOSHANGABAD ROAD, 48, ADMINISTRATIVE AREA, AREA HILLS, BHOPAL (M.P.) 462011
2. Adv. / Consult
   MR.PRABHAT KUMAR
   B-51(BASEMENT)SARVODAYA ENCLAVE NEAR MOTHER INTERNATIONAL SCHOOL NEW DELHI
3 C.D.R
~~4 J.C.D.R.~~
5 Bar association, CESTAT, New Delhi
6 Director Publications, Customs, Excise. I.P. Estate, New Delhi
7 M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15 LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16 Office Copy
17 Guard file

Assistant Registrar
(Excise Appeal Branch)

18. MR. VINEET MAHESHWARI,
M/S NARAIN SUGARS PVT. LTD.
SALICHAUKA DISTT. NARSINGHPUR, MADHYA PRADESH

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. III

Excise Appeal No. 650 & 733 of 2006 (Ex.Br.)

[Arising out of Order-in-Original No. 45/Commr/CEX/2005 dated 30.11.2005 passed by Commissioner of Customs & Central Excise, Bhopal]

Mr. Narmada Sugar P.Ltd. Appellants
Mr. Vineet Maheshwari

Vs.

Commissioner of Central Excise Respondent
Bhopal.

Appearance: Mr. Prabhat Kumar, Advocate for the Appellants
Mr. Vijay Kumar, SDR for the Respondent

CORAM: Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. D.N.Panda, Member (Judicial)

Date of Hearing/decision : 26.11.2009

FINAL **ORDER NO. 1402- 1403/09 - EV**

Per D.N.Panda (for the Bench):

Learned Counsel Shri Prabhat Kumar, at the very outset raises plea of violation of natural justice during adjudication resulted by order dated 30.11.05, under appeal before the Tribunal. He draws attention to paragraph 15 at page 10 of the order-in-original to show that show cause notices dated 20.7.2005 / 4.8.2005 was issued calling for reply of the appellant. The appellants being deprived of placing certain documents and information requested the authorities for grant of an opportunity to reply to show cause notice. Without proper opportunity granted, within a short span of four months, adjudication proceeding was finalised unilaterally ignoring compelling circumstances calling for grant of opportunities. It was further submitted that if an opportunity is granted, the appellants shall file reply to the show cause notice within four weeks time from today and produce documents coming to their rescue and shall appear for hearing as and when a date is fixed. The appellant also craves leave to raise all legal plea before the learned Adjudicating Authority.

2. Learned DR does not disagree with the contents of para 15 of the order in original. But he opposes the remand of the matter to the authority below.

3. We have carefully examined the plea of violation of principles of natural justice. We are satisfied that there was only four months time available for completing the adjudication proceedings. We have also gone through the gravity of matter in para 2, 3 and 4 of the order to appreciate on the basis of outcome of investigation made, the appellants were issued show cause notice. We do appreciate that there was violation of natural justice. It is not curable at the appellate stage. Appellants deserve fair trial for placing their case. Therefore, grant of an opportunity to reply to show cause notice and raise defence may not be ruled out. If such a procedure is followed, appellants may not be deprived from process of justice. Accordingly, we direct the appellant to file reply to the show cause notice within four weeks from today and appear before learned Adjudicating

Authority on a date to be fixed for hearing. Learned Authority affording reasonable opportunity of hearing shall adjudicate the matter afresh in accordance with law.

4. In the result, we set aside the impugned order and remand the appeals in both the cases to the learned Adjudicating Authority for fresh adjudication and make it clear that learned adjudicating authority without grant of further time shall be at liberty to pass appropriate order following due process of law if reply to show cause notice does not reach to him within 4 weeks from today.

(M. Veeraiyan)
Technical Member

(D.N.Panda)
Judicial Member

ss