

GRAM: CEGCANAL

REGISTERED/A.D

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

BENCH NB(SM)

Appeal No. E/3261/00-NB(SM)

Dated: 9/3/2001

CEGAT.  
NEW DELHI  
To,

M/s M O Engg. (P) Ltd.,  
E-185, Greater Kailash - I,  
New Delhi

In the matter of:

M/s M. O. Engg. Pvt. Ltd., Appellant  
vs.  
CCE New Delhi Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/336/2001-NB(SM)  
Dated: 27-2-2001 passed by the Tribunal under Section 35-C(1) of Central Excise  
& Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to:

Asstt. Registrar  
NB(SM)

1. CCE New Delhi
2. CCE/CE/(Appeal) New Delhi
3. Chief Commissioner of Central Excise/Customs. New Delhi
4. Adv./Consult. Shri Naveen Mullick, Adv.,  
B-388, Meera Bagh, New Delhi - 110063.
5. S.D.R
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of  
Defence Colony, New Delhi-110003
13. M/s Lex Site Com. Ltd., Mumbai
14. Office Copy
15. M/s Cen- cus Publications.
16. M/s Law Infotech Resources Pvt. Ltd.,

Asstt. Registrar

**In the Custom, Excise & Gold (Control) Appellate Tribunal**  
**New Delhi** NORTHERN BENCH (SM)

APPEAL NO. E/3261/00-NB(SM) OF 19 (.....)

ARISING OUT OF ORDER IN ~~ORIGINAL~~ APPEAL NO.

661-CE/DLH/2000 DATED 11.07.2000.

PASSED BY..... COMMISSIONER OF CENTRAL

..... EXCISE, NEW DELHI.

Date of decision..... 27.02.2001.

M/s MO ENGINEERING Pvt. Limited, New Delhi APPELLANT (S)

Represented by Sh./Smt..... NAVEEN MULLICK,

..... ADVOCATE.

**VERSUS**

CCE, NEW DELHI - ..... RESPONDENT (S)

Represented by Sh./Smt..... A.K. JAIN,

..... JDR.

CORAM:  
SHRI P.G.CHACKO, MEMBER (JUDICIAL)

To be referred to the Reporter or not?  
FINAL ORDER NO. A/336/01/NB(SM)

Per..... P.G.CHACKO:

After carefully examining the records and <sup>hearing</sup> both sides, I feel that this appeal itself requires to be disposed at this stage. Therefore, <sup>1 2</sup> allow this application and take up the appeal for final disposal.

2. It appears that both the lower authorities have passed their respective orders without personal hearing<sup>of</sup> the party. Whether sufficient opportunity was given to the party for personal hearing is not relevant for the present. It is, however, noted on the face of the record that, in the appeal filed by the party before the Commissioner (Appeals) against the order of the Assistant Commissioner disallowing certain Modvat credit and imposing penalty, they had raised a specific ground that the order of adjudication passed in 1999 in adjudication of show-cause notice issued in 1993 was not liable to be sustained. The appellants also cited case law in support of the said ground. But ld. Commissioner (Appeals) did not consider the said ground at all. The lower appellate authority ought to have considered all the grounds raised in the memorandum of appeal, particularly when the party was not available for personal hearing. Hence in the facts and circumstances of the case, there appears to be denial of justice to the assesseees by the lower appellate authority. I, therefore, set aside the impugned order and direct the Commissioner (Appeals) to pass fresh speaking order on all the grounds raised by the appellants, after affording a reasonable opportunity of personal hearing to them.

3. The appeal stands allowed by way of remand as above.

4. It is further made clear that the Departmental authorities shall refrain from enforcing the Assistant Commissioner's order during the pendency of the appeal before the Commissioner (Appeals).

(Dictated and pronounced in the open Court.)

(P.G.CHACKO)  
MEMBER (JUDICIAL)

27.02.01.

amk.,