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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/532 /2007,534 /2007 - EX[DB] Date **13/03/2012**

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

To :
HINDUSTAN ZINC LTD.
YASHAD BHAWAN, UDAIPUR(RAJASTHAN)

HINDUSTAN ZINC LTD. Appellant

Vs

C.C.E. JAIPUR-II Respondent

I am directed to transmit herewith a certified copy of **Final order No.280-281/ 2012 EX|DB|** dated 09-3-12 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. JAIPUR-II
NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR

2. Adv. / Consult
~~MR.APURVA BHATTACHARYA ADV~~
~~BINDU BHAWAN, 49, SHASTRI MARG, UDAIPUR(RAJ)~~
SH. R.K. HASIJA ADV.
B-6/10, S.J. ENCLAVE,
N. DELHI-29
3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd.,1512-B, Bhishm Pitamah marg,Opp. ICICI Bank of Defence Colony, New Delhi-3
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file
14. SHRI DINESH MANTRI, GM (F), HINDUSTAN ZINC LTD.
YASHAD BHAWAN, UDAIPUR

Assistant Registrar
(Excise Appeal Branch)

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

Excise Appeal No. 532 & 534 of 2007

[Arising out of Order-in-Original No. 22-CE/JP-II/2006 dated 29.11.2006 passed by the Commissioner of Central Excise, Jaipur]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Mathew John, Member (Technical)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : No
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : No
3. Whether Their Lordships wish to see the fair copy of the Order? : Seen
4. Whether Order is to be circulated to the Departmental authorities? : Yes

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M/s. Hindustan Zinc Ltd. Appellants
Shri Dinesh Mantri, GM

Vs.

Commissioner of Central Excise Respondent
Jaipur II

Appearance:

Shri R.K. Hasija, Advocate for the Appellants
Shri R.K. Verma, SDR for the Respondent

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Mathew John, Member (Technical)

Date of Hearing/decision : 1.03.2012

FINAL **ORAL ORDER NO** A/280 – 281/2012-EX(BR)

Per Archana Wadhwa (for the Bench):

After hearing both sides, we find that the impugned order stands passed by Commissioner in violation of principle of natural justice, inasmuch as no date of personal hearing was fixed by the adjudicating authority and no opportunity of presenting the case in person was afforded by him. For better appreciation, we reproduce the relevant portion of the impugned order.

> "...The party is a reputed company, regularly dealing with the department and aware of the consequences. Shri Dinesh Mantri is the Gen. Manager of the Co. regularly dealing with the Central Excise matters. Inspite of that they have not chosen to submit a reply or seek time to submit a reply. Therefore, I propose to take up the case for adjudication without any further delay."

2. As is clear from the above, no personal hearing was granted by the adjudicating authority. Merely because the detailed reply does not stand filed by the noticee, the basic principle of audi altram paltram cannot be ignored. It is well settled that one must be heard in person before giving any decision against that person.

3. Inasmuch as no hearing was fixed by the adjudicating authority, we deem it fit to set aside the impugned order having been passed in gross violation of principles of natural justice. The matter is remanded

to the Commissioner for fresh decision after observing the principles of natural justice.

4. The appeals are thus allowed by way of remand.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

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