

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
NEW DELHI  
PRINCIPAL BENCH,-COURT NO. 4**

**CUSTOMS APPEAL NO. 51299 OF 2025**

[Arising out of Order-in-Original No. 54/2024-25/DR/PR.COMMR/ACC/IMPORT dated 31.03.2025 passed by the Pr. Commissioner of Customs, New Delhi]

**HERBO NUTRA**

**.....APPELLANT**

UPSIDC Site, A-2/66, Kasna Road,  
Block G, Industrial Areas,  
Surajpur Site-4, Greater Noida,  
Gautam Buddha Nagar,  
Uttar Pradesh-201308

Vs.

**PRINCIPAL COMMISSIONER OF  
CUSTOMS(ACC IMPORT)-NEW DELHI**

**.....RESPONDENT**

Air Cargo Complex Import,  
New Customs House, Near IGI Airport  
New Delhi-110037

**Appearance:**

Shri Himanshu Goyal, Advocate for the appellant

Shri Nikhil Mohan Goyal, Authorised Representative for the Respondent

**CORAM:**

**HON'BLE MR. C.J. MATHEW, MEMBER (TECHNICAL )**

**HON'BLE MR. AJAY SHARMA, MEMBER ( JUDICIAL )**

**FINAL ORDER NO. 51895 /2025**

**DATE OF HEARING/DECISION : 18/12/2025**

**C.J. MATHEW**

Though the appeal of M/s Herbo Neutro, in relation to import of 'vegetable extracts', valued at ₹ 1,94,55,236, including that valued at ₹ 13,00,818 pending clearance, between June 2019 and March 2022, challenges order<sup>1</sup> of Principal Commissioner of Customs, Air Cargo Complex (ACC), Delhi for revising rate of duty corresponding to tariff item 1302 1919 and 1302 1990 to that corresponding to tariff item 2106 9099 of First Schedule to Customs Tariff Act, 1975, with consequent denial of

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**1 [order-in-original no. 54/20024-25 dated 31st March 2025]**

exemption availed in notification no. 50/2017-Customs dated 30<sup>th</sup> June 2017 to fasten duty liability of ₹ 50,50,579 under section 28 of Customs Act, 1962 with penalty of like amount under section 114A of Customs Act, 1962, on inappropriate revision of classification, for having ignored law as settled by judicial determination on use as criteria and for exceeding bar of limitation, Learned Counsel for appellant pressed ground of non-compliance with principles of natural justice.

2. According to Learned Counsel, the order, though decided on merit, was devoid of submissions in their written response that were intended to be elaborated during personal hearing as set out in thus

*'46.1 The noticee M/s Herbo Nutra Extract Pvt. Ltd., has submitted his written reply on 28.05.2024. The second noticee, Sh. Bhashkar Dwivedi, also submitted his reply on 28.05.2024. The personal hearing in the matter was fixed on 17.01.2025. However, no one appeared for personal hearing on behalf of noticee. The next date of hearing was fixed on 03.02.2015 and again no one appeared on the behalf of noticee. The next date of hearing was fixed on 17.02.2025 and again no one appeared from the side of noticee. The next date of hearing was fixed on 18.03.2025 but no one appeared from the side of noticee. Thus, the noticee was accorded four opportunities for personal hearing, they failed to avail it. Thus, on the reasonable belief that, the noticee do not wish to say anything in person or have any thing to state other than the written submission, I am proceeding to adjudicate the case based on their written submission.'*

in the impugned order.

3. Learned Authorized Representative submitted that adequate opportunity had been afforded to appellant.

4. We find that appellant was denied the right to be heard in person and, as pointed out thus

*'1. The Principal Commissioner of Customs, Air Cargo Complex (Import) New Delhi, has passed the impugned order without granting personal hearing to appellant. The proceedings are in violation of Principle of Natural Justice and is liable to be set aside on this ground alone. That Personal*

*hearing in the matter was fixed on 17.01.2025, however the memo informing the personal hearing on 17.01.2025 was received on 17.01.2025 only, therefore, Appellant vide their letter dated 20.01.2025 requested for granting personal hearing on another date. There after Appellant did not receive any information regarding the next date of personal hearing. Though in the said order in original it has been stated that personal hearing was fixed on 03.02.2025, 17.02.2025 and 18.03.2025 but no one appeared for personal hearing, Appellant re-iterate that they did not receive any memo / letter informing the grant of personal hearing on 03.02.2025, 17.02.2025 and 18.03.2025. That appellant vide application dated 06.05.2025, under Right to Information Act, 2005, had sought information regarding mode and date of communication of said personal hearing memo, however no reply has been received till filing of present appeal.'*

in the grounds of appeal.

5. In the circumstances *supra* of the claim of the appellant, *viz*, that intimation of notice not having been communicated to them, and in the absence of contrary evidence from the respondent-Commissioner, interests of justice and equity warrant fresh consideration of the allegations in the show cause notice. To enable that, we set aside the impugned order and restore disposal of the notice to the original authority for a fresh decision; the appellant is directed to approach the adjudicating authority in person for obtaining the schedule for personal hearing.

6. Appeal is allowed by way of remand.

[Operative part of order pronounced in open court]

**(C.J. MATHEW)**  
**MEMBER (TECHNICAL)**

**(AJAY SHARMA)**  
**MEMBER ( JUDICIAL )**