CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

<u>COURT-IV</u>

Date of hearing: 12.06.2017

Appeal No. ST/794/2011-CU[DB]

[Arising out of the Order-in-Original No. 103/ST/D-II/2011 dated 08.03.2011, passed by the Commissioner of Central Excise, New Delhi]

M/s. Win Medicare Pvt. Ltd. … Appellant

Vs.

CST Delhi … Respondent

Appearance:

Present Ms. Jyoti Yadav, Advocate for the appellant
Present Shri Sanjay Jain, DR for the respondent

Coram: Hon'ble Mr. D.N. Panda, Member (Judicial)
Hon'ble Mr. Ashok K. Arya, Member (Technical)

<u>FINAL ORDER No. 53949/2017</u>

<u>Per D.N. Panda:</u>

Ld. Counsel seeks adjournment on the ground that her senior is out of station.

2. With the assistance of the Revenue, record was perused. Beginning from para 3 to 6 of the adjudication order dated 30.09.2010, nothing is apparent to know whether ld. Adjudicating authority has examined the relevant documents to ascertain taxability of the appellant for provision of impugned services. Unless the material facts are brought to record and those are tested by evidence and applicable law, no reasoned and speaking order is said to have been passed. According to law, an order should be reasoned and speaking to meet judicial scrutiny. That is given go bye by the impugned order.

3. A Quasi judicial authority should bring out the matter in controversy for adjudication and process the material facts to test by evidence and law for passing a reasoned and speaking order. That being absent in the present case impugned order suffers from legal infirmity. Therefore, we remand the case to learned adjudicating authority to provide reasonable opportunity of hearing to the appellant and explain its case to pass a reasoned order recording pleading and evidence.

4. . It is needless to speak that the author of the impugned order has only reproduced ELT head notes and merely reproducing provision of the law had passed the order for the purpose of discharge of his duty following an empty formality.

[Dictated and Pronounced in the open court]

(Ashok K. Arya)
Member (Technical)

(D.N. Panda)
Member (Judicial)

Bhanu