**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,**
West Block No.2, R.K.Puram, New Delhi

**COURT-III**

**Date of hearing: 30.08.2017**

**Appeal No. C/51231/2017-SM**

[Arising out of the Order in Appeal No. CCA/Customs/DII/Pre/460/17 dated 03/07/2017, passed by the Commissioner of Customs (Appeals), New Delhi]

CC, New Delhi … Appellant

Vs.

Manvi Exim P. Ltd … Respondent

Appearance:
Present Shri R.K. Mishra, DR for the appellant
Present Shri A. Jaju, Advocate for the respondent

**Coram: Hon'ble Mr. S.K. Mohanty, Member (Judicial)**

**FINAL ORDER No. 56323/2017**

## Per S.K. Mohanty

1. Heard both sides.
2. This appeal of Revenue is against the impugned order dated 03/07/2017 passed by the Ld. Commissioner of Customs (Appeals), New Delhi. The preliminarily grievance of Revenue is that the impugned order has been passed in gross and flagrant violation of the principle of natural justice in as much as no opportunity was granted to the revenue for presenting its case and the appeal papers were also not forwarded to the concerned Commissionerate for obtaining the comments on the issue. The ground urged in the appeal memorandum is extracted herein below :-

> The order is unjust in as much as neither any clarification was sought from the department nor any personal hearing was given on this issue. It is pertinent to mention here Section 128 allows three opportunities for personal hearing but not a single opportunity was given to the Department. Even copy of application of the appellant was not forwarded to the concerned Commissionerate to obtain comments on the issue. This tantamount to violation of principle of natural justice.

3. On perusal of the case records, I find that in fact the principles of natural justice has been violated in not giving opportunity to the Revenue to present their case before the First Appellate Authority. Thus, in this case Section 128 of the Customs Act, 1962 has not been scrupulously followed by the Ld. Commissioner (Appeals). Therefore, I am of the view that ends of justice will be met, if the matter is remanded to the Commissioner (Appeals) for deciding the issue afresh.

4. Accordingly, after setting aside the impugned order, I remand the matter back to the Commissioner (Appeals) for deciding the appeal afresh preferably within the period of 15 days from the date of receipt of this order. Needless to say that opportunity of hearing shall be granted to both sides, before deciding the issue. Order to be in dasti.

[Order dictated and pronounced in the open court]

**(S.K.Mohanty)**
**Member (Judicial)**

Rekha