

Ex. Appeal Nos. 52532 to 52536 of 2016 & 50381 of 2017

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 23.10. 2017

Ex. Appeal Nos. 52532 to 52536 of 2016 & 50381 of 2017

(Arising out of order-in-original No. RPR/EXCUS/000/COM/22/2016 dated 30.03.2016 passed by the Commissioner, Customs & Central Excise, Raipur).

Shyam Somani
Jitendra Somani
Sanjeev Kapoor
Rajeev Kapoor
Gopal Bardia
M/s Baldev Alloyws Pvt. Limited

Appellant

Vs.

CCE&ST, Raipur

Respondent

Appearance:

Sh. Bipin Garg, Advocate for the assessee
Sh. H. C. Saini, AR for the Revenue

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order Nos. 57425 – 57430/ 2017

Per: **Mr. Justice (Dr.) Satish Chandra:**

The present appeals have been filed against the order-in-original No. RPR/EXCUS/000/COM/22/2016 dated 30.03.2016 passed by the Commissioner, Customs & Central Excise, Raipur.

2. Heard Shri Bipin Garg, Id. Advocate for the appellant and Sh. H. C. Saini, Id. AR for the department.

3. After hearing both the parties and on perusal of record, it appears that in para 9 of the impugned order it is mentioned that –

“9. No reply to the aforementioned show cause notice has been filed by any of the noticees. Personal hearing in the matter was fixed for 28.12.2015, 29.01.2016, 18.02.2016 and 09.03.2016. But, none appeared to defend its case on the scheduled date and time. Ample opportunities for personal hearing to defend the case has been extended to all the noticees, in keeping with the established principles of natural justice, accordingly there appears no reason to further linger on the adjudication proceedings I, therefore, proceed to decide the case on the basis of the evidences available on record”.

4. From the above, it appears that the impugned order was passed ex-parte. During the course of arguments, Id. Counsel submits that the proceedings were not attended due to unavoidable circumstances. However, he submits that if a chance is provided, they will present the facts before the original authority.

5. In view of the above, we set aside the impugned order and remand the matter to the original authority to decide the matter afresh, but by providing an opportunity of hearing to the appellant. Fresh evidence, if necessary, may be admitted as per law.

6. In the result, appeals are allowed by way of remand.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant