IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –IV

Service Tax Appeal No.ST/54683-54684/2014-CU [DB]

[Arising out of Order-in-Original No.16-17/COMMR/ST/ADJ/ BPL-I/2014 passed by the Commissioner, Central Excise and Service Tax, Bhopal]

M/s. World Wide Security Organization …Appellant

Vs.

C.C.E. & S.T., Bhopal … Respondent

Present for the Appellant : Mr.G.K. Sarkar, Advocate
Present for the Respondent: Mr.Ranjan Khanna, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. B.RAVICHANDRAN, MEMBER (TECHNICAL)

Date of Hearing / Decision : 09/11/2017

FINAL ORDER NO. 57902-57903/2017

PER: B.RAVICHANDRAN

The only grievance of the appellant in the present appeals against the common impugned order dated 30.04.2014 is that they were not provided opportunity to present their case and they were proposing to approach the Hon'ble Settlement Commission for settling the matter. However, the original authority proceeded to decide the case ex-parte. Accordingly, the ld. Counsel pleaded that they may be given an opportunity to defend their case and to present their side with supporting documents.

2. Ld. AR opposed the submissions of the ld. Counsel. He submitted that these show cause notices were issued in September and October, 2012 and the case was taken up for adjudication after more than one year. Despite of given adequate opportunity, the appellants failed to avail the same and did not co-operate with the original authority for a due adjudication of the case. The case cannot be kept indefinitely pending and the principle of natural justice has been duly followed by due notices of the original authority.

3. We have considered the submissions of both the sides and perused the appeal records. Admittedly, the original authority has taken up the adjudication of the case after sufficient gap from the date of issue of notices. However, we note that when the notice for personal hearing was issued to the appellant they have requested the original authority to keep the proceedings pending for some more time to enable them to approach the Hon'ble Settlement Commission to close the matter. Here we note though the original authority is correct in initiating the adjudication proceedings, the statutory provisions do not provide for any time limit for the party to approach the Hon'ble Settlement Commission after the issue of

show cause notice. Their intention to approach the Settlement Commission has also been intimated to the Adjudicating authority. The authority decided the case within 3 (three) weeks of such receipt of intimation. Admittedly, the case has been decided ex-parte based on available records.

4. After perusal of the facts and circumstances of the case and upon hearing both the sides we are of the considered view that the matter requires due adjudication after hearing the appellant. The appellants also pleaded that they may be given fair chance to defend their case before the original authority. Considering this prayer as proper, we hold that the impugned order is to be set aside and the matter is to be remanded to the original authority for a fresh consideration of the case. Ordered accordingly. The original authority shall provide adequate opportunity to the appellant, who without seeking further adjournment will submit their side on the defense and co-operate with the adjudicating authority for early decision of the case, afresh.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita