IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II

DATE OF HEARING : 21/12/2017.
DATE OF DECISION: 21/12/2017.

Excise Appeals No. 1711-1712 of 2012 (SM)

[Arising out of the Order-in-Original No. 32/2012 (CE)-Commissioner dated 03/04/2012 passed by The Commissioner of Central Excise, Jaipur.]

M/s Allure International	]	Appellants
Shri Pankaj Khubani	]	

Versus

CCE & ST, Jaipur – I	Respondent

Appearance

Ms. Surabhi Sinha, Advocate – for the Appellants.

Shri G.R. Singh, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri Ashok Jindal, Member (Judicial)**

Final Order No. 58591-58592/2017 Dated : 21/12/2017

Per. Ashok Jindal :-

The appellants are in appeal against the impugned order wherein penalty under Rule 26 of the Central Excise Rules, 2002 has been imposed on the appellants. Before starts of the arguments, on merits, the learned Counsel for the appellants drew my attention to the impugned order to say that there is a gross violation of principles of natural justice as initially the appellants were not supplied the relied upon documents and after supply of relied upon documents, the appellant sought adjournment vide letter dated 13/01/2012 for one month, but no further adjournment was granted, therefore, there is a gross violation of principles of natural justice. In that circumstances, the impugned order is to be set aside qua appellants and sought remand back the matters to the Adjudicating Authority to give personal hearing to the appellants and thereafter to decide the matters on merits.

2. I have gone through the impugned order wherein it is not disputed that appellant vide letter dated 13/01/2012 requested for adjournment for personal hearing for a period of one month, but a date of personal hearing was fixed for 21st January, 2012 and it is also reported that appellants are not attended the hearing, but it is not coming out from records whether any notice of hearing for 21/01/2012 was sent to the appellants or not and thereafter no hearing was granted to the appellants. In that circumstances, I hold that as initially relied upon documents were not supplied and thereafter no opportunity of being heard has been granted to the appellants, therefore, there is a gross violation of principles of natural justice.

3. In that circumstances, the impugned order qua imposing penalty under Rule 26 of Central Excise Rules, 2002 against the appellants is set aide and remanded back to the Adjudicating Authority to consider the defence reply of the appellant and thereafter to give opportunity of being heard to the appellant to argue the matter and thereafter to decide the issue on merits.

4. In these terms, appeals are allowed by way of remand.

(Order dictated and pronounced in the open court.)

(Ashok Jindal)
Member (Judicial)

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