

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110066**

Date of Hearing: 20/12/2018

Appeal No. E/50709,50707,50708,50710/2018-DB

[Arising out of Order in Original No. ALW-EXCUS-000-COM-019-17-18 dated 02/11/2017 passed by the Commissioner of Central Excise-Alwar]

M/s Pryag Polymers Pvt. Ltd. & others

Appellant

Vs.

CCE Alwar

Respondent

Appearance

Shri B. Garg, Advocate

for the appellant

Shri H. C. Saini

for the respondent

**CORAM: Hon'ble Mr Anil Choudhar, Member (Judicial)
Hon'ble Mr. Bijay Kumar, Member (Technical)**

Final Order No. 53490-53493/2018

Per Bijay Kumar

1. The appellant is in appeal against the Order-in-Original No. ALW-EXCUS-000-COM-019-17-18 dated 02/11/2017, passed by the Commissioner of Central Excise vide the impugned order. The Commissioner has confirmed the demand against the appellant.

2. Ld. Advocate, on behalf of the appellant, submits that the appellant asked for the adjournment of the dates fixed for the personal hearing which is recorded in para 2.1 as under;

“2.1 Further he states that in this case there is no clear date for personal hearing as the Adjudicating Authority has fixed the date on personal

hearing on 26-27th September 2010 and 10th October, to appear before him.”

It is his submission that in view of decision of Hon'ble Gujrat High Court, 2017 GSTL 15, there has to be a clear date of personal hearing and giving three consecutive dates are not sufficient for the personal hearing. Relying on the above decision, we are of the view that the case needs to be remanded back to the Adjudicating Authority, and therefore, based on submission made by the appellant.

3. Ld. AR on behalf of the Revenue supports the impugned order saying that the sufficient opportunity have been provided to the appellant for defending of the charge against him, however they failed to do so. Accordingly, impugned order is legal and proper and required to be upheld.
4. Hearing the parties and perused the appeal records, we find that in this case there are ample evidences on record to show that the appellant had been asking for the adjournment of time for proper defence of the charge made against them vide the show cause notice dated 6/7/2017. We are also in agreement with the Ld. Counsel supported by the various decisions of the Tribunal and High Courts that the Commissioner has failed to give clear dates of personal hearing to the appellant in the subject matter of the present case.

5. Accordingly, we set aside the impugned order and allow the appeal by way of remand. In the interest of justice, we also direct appellant to file reply to the Show Cause Notice and appear before the Adjudicating Authority and seek opportunity of personal hearing within the three months from the date of receipt of this order.

(Dictated and pronounced in open court)

(Anil Choudhary)
Member(Judicial)

(Bijay Kumar)
Member(Technical)

Tejo