

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA**

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No. 76643 of 2019

Arising out of Order-in-Appeal No.31/PAT/ST/APPEAL/2019-20 dated 28.05.2019
passed by Commissioner (Appeals) of Customs, Central GST & Central Excise, Patna.

M/s. Hotel City Centre
(Station Road, Patna-800001)

Appellant (s)

VERSUS

Commr. of CGST & CX, Patna-I Commissionerate
(2nd Floor, Central Revenue Building (Annexe),
Beerchand Patel Path, Patna-800001)

Respondent (s)

APPEARANCE :

Mr. Manish Rastogi, Advocate for the Appellant

Mr. S. Mukhopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)

FINAL ORDER NO...75077/2023

Date of Hearing : 13th March 2023

Date of Decision : 13th March 2023

ORDER

When the appeal came up for hearing, the Ld. Advocate appearing for the Appellant submits that the Appellant was not served Show Cause Notice. Based on the Personal Hearing notice received by them, they have appeared before the Adjudicating Authority and made submissions that they have not been served the Show Cause Notice. The Adjudicating Authority without going into these submissions confirmed the demand. In their Appeal before Commissioner (Appeals), they once again reiterated that they have not received the Show Cause Notice and even the OIO was received by them as a certified copy at a later date. The Commissioner (Appeals) in Para 8.1 of the OIA has cited these facts. It is seen from this Paragraph that only the mailing of the Show Cause Notice under Speed Post No. EF262905510IN is mentioned. No effort has been made towards tracking of this Speed Post letter to find out whether actually the Show Cause Notice has been served on the

Service Tax Appeal No. 76643 of 2019

Appellant or not. It is also on record that OIO was issued as a certified copy at a later date. In catena of decisions, it has been held that Show Cause Notice is a fundamental document of any litigation. Without being served Show Cause Notice, it has been held that the noticee has no means to defend his case properly.

2. In view of the foregoing, I deem it fit to remand the matter to Adjudicating Authority. He is required to issue the Show Cause Notice to the Appellant and follow the principle of Natural Justice while adjudicating this case. Since the matter pertains to 2018, the Adjudicating Authority is directed to complete the entire process within 4 months from the date of communication of this order.

3. The Appeal stands disposed of thus.

Dictated and pronounced in the open court.)

Sd/-

(R. Muralidhar)
Member (Judicial)

Pooja