

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.1

Excise Appeal No.731 of 2012

(Arising out of Order-in-Original No.CCE/BBSR-I/07/2012 dated 27.09.2012 passed by Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar-I.)

**Commissioner of Central Excise, Customs & Service Tax,
Bhubaneswar-I**

(C.R. Building, Rajaswa Vihar, Bhubaneswar, Odisha.)

...Appellant

VERSUS

M/s. Sudarshan Products

.....Respondent

(At/PO: Gangadahani, P.S. Purushottampur, Dist: Ganjam, Odisha.)

WITH

Excise Appeal No.732 of 2012

(Arising out of Order-in-Original No.CCE/BBSR-I/07/2012 dated 27.09.2012 passed by Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar-I.)

**Commissioner of Central Excise, Customs & Service Tax,
Bhubaneswar-I**

(C.R. Building, Rajaswa Vihar, Bhubaneswar, Odisha.)

...Appellant

VERSUS

M/s. Sudarshan Nayak

Prop: M/s. Sudarshan Products

.....Respondent

(At-Trinath Nagar, P.O. Berhampur, Dist: Ganjam, Odisha.)

AND

Excise Appeal No.72018 of 2013

(Arising out of Order-in-Original No.CCE/BBSR-I/07/2012 dated 27.09.2012 passed by Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar-I.)

Sri Budhiman Nayak

(At/PO: Gurunthi, P.S. Purushottampur, Berhampur, Dist: Ganjam, Odisha.)

...Appellant

VERSUS

**Commissioner of Central Excise, Customs & Service Tax,
Bhubaneswar-I**

(C.R. Building, Rajaswa Vihar, Bhubaneswar, Odisha.)

.....Respondent

APPEARANCE

Shri S.S.Chattopadhyay, Authorized Representative for the Revenue
Shri Devraj Sahu, Advocate for the Respondent (s)

**CORAM: HON'BLE SHRI ASHOK JINDAL, MEMBER(JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)**

FINAL ORDER NO. 76616-76618/2023

DATE OF HEARING : 12 September 2023
DATE OF DECISION : 12 September 2023

Per : ASHOK JINDAL :

These three appeals are listed today for disposal before us.

2. When the matters were called, without going into the facts of the case, the Ld.AR for the department submits that the sole ground by all the appellants in these appeals are that the adjudicating authority has travelled beyond the scope of the show cause notice, therefore, the impugned order is to be set aside and the matter be remanded back to the adjudicating authority for fresh adjudication.

3. It is the submission of the Ld.AR for the department that initially a proposal for confirmation of demand of duty was made in the show cause notice against M/s. Sudarshan Products and for imposition of penalty against Shri Sudarshan Nayak and Shri Budhiman Nayak, but the adjudicating authority while passing the impugned order confirmed the demand of duty on Shri Bhuman Nayak, which is beyond the scope of the show cause notice and no demand has been raised against M/s. Sudarshan Products against whom there was a proposal in the show cause notice. Therefore, the impugned order is to be set aside.

4. On the other hand, the Ld.Counsel appearing for M/s. Sudarshan Products and Shri Sudarshan Nayak submits that there is no evidence against the assesses to whom they are representing, therefore, no

demand can be confirmed against them. Therefore, the impugned order is to be upheld.

5. Heard the parties, considered the submissions.

6. All the appellants have challenged this order on the sole ground that the adjudicating authority has travelled beyond the scope of show cause notice by confirming the demand against Shri Budhiman Nayak and dropped the demand against M/s. Sudarshan Products. In that circumstances, we hold that the impugned order is bad in law as the Ld.Commissioner while passing the impugned order has travelled beyond the scope of the show cause notice.

7. In view of the above observation, we set aside the impugned order and remand the matter back to the adjudicating authority for fresh adjudication. It is pertinent to mention here that the issue is very old, therefore, the adjudicating authority shall decide the show cause notice within 3(three) months from the receipt of this order by affording an opportunity of being heard to all the noticees and thereafter to pass an appropriate order in terms of law.

(Dictated and pronounced in the open Court.)

Sd/
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)