

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

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.137 of 2011

(Arising out of Order-in-Appeal No.40/ST/B-I/2010 dated 13.10.2010 passed by Commissioner(Appeals) of Central Excise, Customs & Service Tax, Bhubaneswar.)

M/s. Patriot Transport Private Limited

(Shiv Bhawan, Tagore Hill Road, Morabadi, Ranchi-834008, Jharkhand.)

...Appellant

VERSUS

Commissioner of Central Excise & Service Tax, Bhubaneswar-I

.....Respondent

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

APPEARANCE

Shri Sudhir Mehta, Advocate for the Appellant (s)

Shri S.S.Chattopadhyay, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)

HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)

FINAL ORDER NO. 77667/2023

DATE OF HEARING : 14 December 2023

DATE OF DECISION : 14 December 2023

Per : R. MURALIDHAR :

When the matter was came up for hearing, the Ld.Counsel submits that due to financial difficulties, the earlier management was not in a position to run it effectively and even when the Appeal was pending before the Commissioner(Appeals), they could not present their case properly by appointing any Advocate or Consultant. He draws our attention to Para 3 of the Order-in-Appeal. A careful reading of the same clarifies that the impugned order was passed *ex parte*. He further submits that the Appellant company has been taken over by a new entity which has sufficient resources to defend their case properly before the Commissioner(Appeals). In the interest of justice, he prays

that the matter may be remanded to the Commissioner(Appeals) for fresh proceedings to be heard by him.

2. After going through the Appeal papers and submissions made, we feel that in the interest of justice, the matter is required to be heard by the Commissioner(Appeals) after giving proper opportunity to the appellant to make their oral and written submission along with documentary evidence. Accordingly, we remand the matter to the Commissioner(Appeals), who will follow the principles of natural justice and give a considered decision within 4(four) months from the date of communication of this order.

3. Appeal disposed of thus.

(Dictated and pronounced in the open Court.)

Sd/

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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