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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 122 of 2012

(Arising out of Order-in-Original No. 18-19/ST/Commr/2011 dated 09.12.2011 passed by the Commissioner of Central Excise Service Tax Patna)

M/s. Mars Mountain Security Service Pvt. Ltd. : **Appellant**
Hem Plaza, Frazer Road,
Patna-800 001.

VERSUS

Commissioner of Central Excise, & Service Tax : **Respondent**
Patna

APPEARANCE:

Shri N. K. Chowdhury, Advocate for the Appellant
Shri D. P. Singh, Advocate

Shri J. Chattopadhyay, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO.75859/ 2024

DATE OF HEARING / DECISION: 02.05.2024

ORDER : [PER SHRI ASHOK JINDAL]

Today when the matter was called, it was brought to our notice by the Ld. Counsel for the appellant that the impugned order has been passed *ex parte* wherein three opportunities had been given to the appellant, but the appellant did not appear and on the third opportunity, the impugned order was passed without considering the defence taken by the appellant.

1.1. To support his contention, he relied on the decision of the Hon'ble Gujarat High Court in the case of *Regent Overseas India Pvt. Ltd. v. Union of India [2017 (6) G.S.T.L. 15 (Guj.)]* to contend that at least one more opportunity was to be granted to the appellant before passing the impugned order.

2. Heard the Ld. Counsel for the appellant and gone through the records.

3. We find that in the impugned order, three opportunities were granted to the appellant and the appellant did not appear. On the third opportunity, the adjudicating authority has passed the impugned order without considering the defence reply filed by the appellant. In the circumstances, we find that the impugned order is bad in law as the same is in violation of the principles of natural justice. Therefore, we set aside the impugned order.

4. Further we find that the appellant was not given ample opportunities of being heard by the ld. adjudicating authority. In these circumstances, we remand the matter back to the adjudicating authority with the direction to the appellant to appear within fifteen days from today before the adjudicating authority along with the copy of order passed by this Tribunal, to fix a date of hearing. On such date, the appellant shall appear before the adjudicating authority and the adjudicating authority shall give patient hearing to the appellant and thereafter, within thirty days thereof, the adjudicating authority shall pass an order in accordance with law.

5. The appeal is disposed of by way of remand.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP