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

REGIONAL BENCH – COURT NO.2

Excise Appeal No. 413 of 2009

(Arising out of Order-in-Original No. CCE/BBSR-I/30/2009, dated 09.04.2009 passed by Commissioner of Central Excise, Customs & Service Tax, Bhubaneshwar-I)

M/s Arjuna Sahu & Sons
(Kathamentu Square,
AT-Haridakhandi, P. O. Berhampur, Dist. Ganjam, Orissa-760006)

Appellant

VERSUS

Commr. of CGST & Central Excise, BBSR
(C. R. Building, Rajaswa Vihar, Bhubaneswar-751007 (Orissa)

Respondent

With

(1) Excise Appeal No. 414 of 2009 (Mr. Brundaban Sahu, Prop of M/s. Arjuna Sahu & Sons Vs. Commr. of CGST & CX, BBSR) (2) Excise Appeal No. 423 of 2009 (Mr. Bibhu Dutta Sahu Vs. Commr. of CGST & Central Excise, BBSR) (3) Excise Appeal No. 424 of 2009 (Mr. Manoj Kumar Sahu Vs. Commr. of CGST & Central Excise, BBSR)

SI No. (1-3)_(Arising out of Order-in-Original No. CCE/BBSR-I/30/2009, dated 09.04.2009 passed by Commissioner of Central Excise, Customs & Service Tax, Bhubaneshwar-I)

APPEARANCE:

Dr. Samir Chakraborty, Sr. Advocate & Shri Abhijit Biswas, Advocate for the Appellant
Shri B. K. Singh, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77259-77262/2025

Date of Hearing : 13th August 2025
Date of Decision : 13th August 2025

ORDER [PER R. MURALIDHAR]

The Show Cause Notice was issued and the Adjudicating Authority passed the impugned order without the reply being filed by the appellant. The appellants did not appear for the hearings granted to them. Being aggrieved by the impugned OIO, they have filed their appeals before the Tribunal. Initially, their appeals were dismissed on account of non-fulfillment of pre-deposit amount decided by this Bench. After this, the appellants have approached the Orissa High Court and the quantum of pre-deposit was modified by the Hon'ble High Court.

2. The Learned Counsel submits that now the modified pre-deposit amount stands paid by the appellants. He submits that since the factual details are required to be gone into by the Adjudicating Authority and the appellants were not in a position to provide all the details along with their reply before him on the earlier occasion, an opportunity may be given to the appellants to do so now.

3. We note that the appellant has pre-deposited Rs. 28 lakhs out of the confirmed demand of Rs. 63,21,938/- as per the modified directions of the High Court. Therefore, we find that this is a fit case to be remanded to the Adjudicating Authority. In order to safeguard the interest of the Revenue, which is the very purpose of the pre-deposit being insisted upon by the Tribunal, duly approved by the High Court, we make it clear that this de-novo adjudication is ordered subject to the condition that the appellant will not file any refund claim towards this pre-deposit already made, till the issue is decided. On behalf of the appellant, the Ld Senior Counsel agrees with this condition.

4. Since, the issue pertains to the year 2005, the Adjudicating Authority is directed to decide this issue after following the principle of natural justice, within four months from the date of receipt of this order. The appellants are directed to fully co-operate with the Adjudicating Authority by filing their reply and providing documentary evidence in defence of their case and by appearing for the PH granted to them.

5. The Appeals stand disposed of by way of remand to the Adjudicating Authority.

(Dictated and pronounced in the open court.)

Sd/-	**Sd/-**
(K. Anpazhakan)	**(R. Muralidhar)**
Member (Technical)	**Member (Judicial)**

Pooja