

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO. II**

Appeal No. C/889/2009

(Arising out of Order-in-Appeal No. 172/2009/MCH/AC/GR.III/2009-10 dated 23.07.2009 passed by the Commissioner of Customs (Appeals), Mumbai).

Commissioner of Customs (Imports), Mumbai	Appellant
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Vs.

M/s Verve Enterprises	Respondent
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Appearance:

Shri S.R. Nair, E.O. (AR)	for Appellant
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None	for Respondent
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CORAM:

HON'BLE SHRI RAMESH NAIR, MEMBER (JUDICIAL) HON'BLE SHRI RAJU, MEMBER (TECHNICAL)
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Date of Hearing: 31.01.2018

Date of Decision: 31.01.2018

ORDER NO. A/85629/2018

Per: Ramesh Nair

The present appeal filed by the Revenue is on the ground that the Commissioner (Appeals) instead of deciding the matter finally has directed the adjudicating authority to pass a fresh order after following the principles of natural justice.

2. Shri S.R. Nair, learned E.O. (AR) appearing on behalf of the Revenue submits that the Commissioner (Appeals) has no power to

remand the matter back to the adjudicating authority. Therefore, order is not legal and proper.

3. None appeared on behalf of the respondent.

4. On careful consideration of the submissions made by the learned AR, we find that in the impugned order the learned Commissioner (Appeals) has directed the adjudicating authority to reconsider the matter as a whole as the principles of natural justice was not followed inasmuch as the test report was not made available to the respondent and they were not heard before passing the adjudication order.

5. We do not find any infirmity in the impugned order of the Commissioner (Appeals). The principle of natural justice is foremost requirement to complete the process of adjudication. Therefore, the direction to the adjudicating authority to observe the principle of natural justice cannot be found faulted. Therefore, we dispose of the appeal by way of remand to the adjudicating authority for passing a fresh order as per the observations made by the learned Commissioner (Appeals) in the impugned order.

(Dictated and pronounced in Court)

(Raju)
Member (Technical)

(Ramesh Nair)
Member (Judicial)

Sinha