IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,WEST ZONAL BENCH AT MUMBAI

COURT No. I

APPEAL No.C/415/09

(Arising out of Order-in-Appeal No.61/2009/MCH/AC/GR-III/2008-09 dated 18/03/2009 passed by Commissioner of Customs (Appeals), Mumbai)

For approval and signature:

Hon'ble Mr.Ramesh Nair, Member (Judicial)
Hon'ble Mr. Raju, Member (Technical)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:No
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:Yes
3.	Whether Their Lordships wish to see the fair copy of the Order?	:Seen
4.	Whether Order is to be circulated to the Departmental authorities?	:Yes

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Commissioner of Customs,
Mumbai **Appellant**

Vs.

Megaton Exports **Respondent**

Appearance:

Shri.M.K. Mall, Asst. Comm. (AR) for appellant
None for respondent

CORAM:

Hon'ble Mr. Ramesh Nair, Member (Judicial)
Hon'ble Mr. Raju, Member (Technical)

Date of Hearing : 02/04/2018
Date of Decision : 02/04/2018

ORDER NO. **A/86430 / 2018**

Per: Ramesh Nair

1. By the impugned order, the Ld. Commissioner (Appeals) directed the adjudicating authority to pass a speaking order by satisfying the principles of natural justice.

2. The Revenue field the present appeal on the ground that the Commissioner (Appeals) has no power to remand the matter.

3. Heard Shri M.K. Mall, Ld. Asst Commissioner (AR) appearing on behalf of the Revenue.

4. None appeared on behalf of the respondents.

5. On careful consideration of the submission made by the Ld. AR and perusal of records, we find that the Ld. Commisioner (Appeals) has passed the following order:

> *"I have perused the case papers and submissions made. It is seen from the impugned order that the copy of the re-test report was not furnished to the appellant being a crucial document. They were deprived of the opportunity of cross-examination of the chemists and experts. The appellant's bone of contention is that they have not been supplied the relied upon documents and the opinions were never communicated to them. There appears to be gross violation of principles of natural justice.*
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> *In view of the above, the matter needs to be considered afresh by the adjudicating authority, i.e. the Deputy Commissioner of Customs, Import, Group III, New*

> *Customs House, Mumbai after providing the relied upon documents to the appellant, satisfy the principles of natural justice and pass speaking order".*

6. From the above order, it is seen that since the adjudicating authority has not passed the speaking order, the Ld. Commissioner has directed the adjudicating authority for passing a speaking order by following the principles of natural justice. We do not find any infirmity in the said order, accordingly, the impugned order is upheld and the Revenue's appeal is dismissed.

(Pronounced in Court)

(Raju) **Member (Technical)**	**(Ramesh Nair)** **Member (Judicial)**

pj