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

APPEAL NO: E/66 & 67/2010

[Arising out of Order-in-Original No: 21/COMMISSIONER /Goa/CX/2009-10 dated 08.01.2010 passed by the Commissioner of Customs & Central Excise, Goa.]

Quality Steels & Others ***Appellant***

versus

Commissioner of Central Excise, Goa ***Respondent***

Appearance:

Shri C.S. Biradar, Advocate / Shri M.H. Patil, Advocate for appellant

Shri M.R. Melvin, Superintendent (AR) / Shri Sanjay Hasija, Superintendent (AR) for respondent

CORAM:
Hon'ble Shri S.K. Mohanty, Member (Judicial)
Hon'ble Shri C.J. Mathew, Member (Technical)

Date of hearing: 18/01/2019
Date of decision: 18/01/2019

ORDER NO: 85162-85163/2019

Per: S.K. Mohanty

Brief facts of the case are that the appellant is a proprietorship concern, engaged in the manufacture of M.S. Binding Wires, M.S. Wires, H.B. Wires etc., at its factory. On 25.10.2007, the Central

Excise Officers conducted search operation in its factory and residential premises and certain incriminating documents, finished goods and raw materials were seized. A show cause notice dated 20.10.2008 was issued, proposing demand of duty along with interest and to impose penalties on the appellant and its power of attorney holder. By the impugned order, the Commissioner, Customs & Central Excise has confirmed the adjudged demands on the appellant.

2. Heard both sides and perused the records.

3. The Learned Advocate on behalf of the appellant submitted that the impugned order was passed without giving proper opportunity of hearing. It is further submitted that the appellant was entitled for Cenvat Credit after crossing the SSI exemption limit. It is also contended that re-drawing of wire from wire would not amount to manufacture for certain period.

4. The Learned DR for revenue reiterated the findings of the adjudicating authority.

5. We find that the main contention of the appellant is that the appellant had engaged the Learned Advocate to appear in the hearing before the adjudicating authority, who was pre-occupied and sought adjournment by letters in each occasions. On perusal of the adjudication order, it appears that the adjournment letters might not be

placed before the adjudicating authority.

6. Considering the overall facts and circumstances of the case, we are of the opinion that the appellant should be given an opportunity of personal hearing before the adjudicating authority to meet the ends of justice. Accordingly, the impugned order is set aside and the matter is remanded to the adjudicating authority to decide the issue afresh, after giving reasonable opportunity of hearing and to pass order, in accordance with law. As the matter is old one, we request the adjudicating authority to decide the issue as expeditiously as possible and the appellant also directed to co-operate in the adjudication proceedings.

7. In the result, the appeal is allowed by way of remand.

(Operative part pronounced in court)

(C.J. Mathew)
Member (Technical)

(S.K. Mohanty)
Member (Judicial)

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