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

Appeal No. ST/88174/2018

(Arising out of Order-in-Appeal No. MUM-DGPM-WRU/APP-123/17-18 dated 20.04.2018 passed by Commissioner of Customs & Central Tax (Appeals), Mumbai)

Takenow Property Developers Pvt. Ltd. **Appellant**

Vs.

Commissioner of CGST **Respondent**
Mumbai Central

Appearance:

Shri Mehul Jivani, C.A. for appellant
Shri S.K. Hatangadi, Asst. Commr (AR) for respondent

CORAM:

Hon'ble Mr. S.K. Mohanty, Member (Judicial)

Date of Hearing & Decision : 10.01.2019

FINAL ORDER NO. **A/85323 / 2019**

Per: S.K. Mohanty

This appeal is directed against the impugned order dated 20.04.2018 passed by the Commissioner (Appeals), Mumbai.

2. The appellant, at the outset, submits that the impugned order was passed in violation of principles of natural justice inasmuch as, though the date of hearing granted to the appellant was recorded as 18.01.2018, 13.02.2018 and 26.02.2018, but in none of the occasions, personal hearing

notice was served on the appellant. It has further been contended by the appellant that the allegation leveled in the show-cause notice is entirely different, than the findings recorded in both the adjudication as well as the impugned order. Thus, it is prayed on behalf of the appellant that the matter should go back to the learned Commissioner (Appeals) for deciding the issue afresh, by complying with the principles of natural justice.

3. Heard both sides.

4. On going through the submissions made by the appellant and upon perusal of records, I am of the *prima facie* view that the principles of natural justice have been violated by the first appellate authority by passing the impugned order dated 20.04.2018. Therefore, I am of the considered opinion that the matter should go back to the learned Commissioner (Appeals) for deciding the issue afresh. Accordingly, by setting aside the impugned order, the appeal is allowed by way of remand to the Learned Commissioner (Appeals). Needless to say, that opportunity of hearing should be granted to the appellant before deciding the issue afresh.

(Order dictated in Court)

(S.K. Mohanty)
Member (Judicial)

nsk