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

REGIONAL BENCH - COURT NO. 02

Customs Misc. Application (EH) No. 85372 of 2019
(on behalf of Respondent)
in
Customs Appeal No. 89118 of 2013

(Arising out of Order-in-Appeal No. MUM-CUSTM-PRV-APP-140 & 141/13-14 dated 11.09.2013 passed by Commissioner of Customs (Appeals), Mumbai-III)

Asian Natural Resources (I) Ltd. **.....Appellant**
BCC House, 8/5 Manaorama Ganj Navratan
Bag Main Road, Indore-452001

VERSUS

Commissioner of Customs (PREV), Mumbai **.....Respondent**
New Custom House, Ballard Estate, Mumbai-400001

<u>Appearance:</u>

None for the Appellant
Smt. P. Vinitha Shekar, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86149 / 2019

Date of Hearing: 14.06.2019
Date of Decision: 14.06.2019

Per: S.K. MOHANTY

Heard Learned DR for Revenue. None appeared for the appellant, despite notice. Revenue has filed this miscellaneous application, seeking for early hearing of appeal. On going through the averments made in the miscellaneous application, we find that this is a fit case for grant of early hearing of appeal. Accordingly, the early hearing application filed by Revenue is allowed. Since the issue lies in a narrow compass, we are taking the appeal for final hearing and disposal today.

2. We find that the Learned Commissioner of Customs (Appeals), Mumbai - III has dismissed the appeal filed by the appellant on the ground that the requirement of Section 129E of the Customs Act, 1962 has not been complied with. The Learned Commissioner (Appeals) has not discussed the merits of the case and simply dismissed the appeal on the ground of non-compliance of the provision of the Section 129E *ibid.* Since the merits of the case have not been discussed, we are of the view that the matter should go back to the Learned Commissioner (Appeals) for a decision on merit on the basis of records available before him.

3. Therefore, after setting aside the impugned order, we are remanding the matter to the Learned Commissioner (Appeals) for deciding the appeal. Needless to say that opportunity of personal hearing should be granted to the appellant before deciding the issue afresh.

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

(Dictated and pronounced in the open court)

(S.K.Mohanty)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

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