CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH, MUMBAI

Customs Appeal No. 86282 of 2013
C/Cross/91097/2013

(Arising out of Order-in-Original No. 48/2012-13 dated 11.01.2013 passed by the Commissioner of Customs (Export), JNCH, Nhava Sheva.)

Shri Pavan B. Aggarwal ....Appellant
603 Saral Apartments, Vanshree Compound,
Marve Road, Malad (W), Mumbai-400 064

VERSUS

Commissioner of Customs (Exports), ...Respondent
Nhavasheva
Jawaharlal Nehru Customs House,
Post – Uran, District-Raigad,
Nhava Sheva – 400 707

WITH

Customs Appeal No. 86742 of 2013
C/Cross/91096/2013

(Arising out of Order-in-Original No. 48/2012-13 dated 11.01.2013 passed by the Commissioner of Customs (Export), JNCH, Nhava Sheva.)

Shri Gautam N. Chhabria ....Appellant
105, Mani Mahal, 11/21, Mathew Road,
Opera House, Mumbai-400 004

VERSUS

Commissioner of Customs (Exports), ...Respondent
Nhavasheva
Jawaharlal Nehru Customs House,
Post – Uran, District-Raigad,
Nhava Sheva – 400 707

APPERANCE:

Shri C.M. Sharma, Advocate for the Appellants
Shri Ramesh Kumar, Asst. Commissioner, Authorised Representative for the Respondents

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86157-86158/2019

Date of Hearing: 18.06.2019
Date of Decision: 18.06.2019

Heard on the appeals.

2. During course of hearing, in filing copy of CESTAT final order No. A/85136-85147/2018 dated 31.01.2018 by which 12 appeals including appeal against the main assessee M/s Ganesh Exports filed by department were remanded back to the Commissioner for re-adjudication on the ground that principles of natural justice was not followed, learned Advocate for the appellants submitted that these appeals arose from the Order-in-Original passed by the Commissioner of Customs (Export), JNCH, Nhava Sheva ordering confiscation, recovery of Customs duty against M/s Ganesh Exports and imposing penalty against these two present appellants under Section 112(b) of the Customs Act, 1962 and also penalty against M/s Ganesh Exports under Section 114A of the Customs Act, 1962.

3. Learned Counsel Mr. C.M. Sharma for the appellants Mr. Gautam N. Chhabria has drawn attention of the Bench to the Order-in-Original at para 70 (1.2) & (4.6) as well as to Mr. Gautam N. Chhabria's preliminary reply dated 18.10.2012 addressed to the

Commissioner of Customs (Export), JNCH, Nhava Sheva as well as letters dated 25.09.2012 & 21.08.2012 and submitted that non-relied upon documents, records and CPU of the computer system which were taken away during investigation were not returned back to the appellants, for which it was unable to put-forth its defence, which was admittedly in violation of the principles of natural justice. This being the factual aspect and the trajectory of the present dispute, I consider it proper to remand these two appeals also to the Commissioner of Customs (Export), JNCH, Nhava Sheva for re-adjudication after affording opportunity to the appellants to defend themselves so as to ensure natural justice to them even though in respect of the other appeal and cross objection, no specific submission is made by either of the parties. In order to maintain coherence and consistency, these two appeals are required to be remanded to avoid piecemeal trail. Hence the order.

ORDER

4. Both the appeals are allowed by way of remand to the adjudicating authority for re-adjudication in above terms. The cross objection is accordingly disposed of.

(Dictated & pronounced in open Court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Prasad