

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH

EXCISE APPEAL NO: 1360 OF 2012

[Arising out of Order-in-Original No:16 to 78/PKA/Th-II/2012 dated 31st May,2012 passed by the Commissioner of Central Excise, Thane – II.]

Neosym Industry Ltd.
LBS Marg, Bhandup, Mumbai-400 078

...Appellant

versus

Commissioner of Central Excise
Thane – II, 4th floor, Nav Prabhat Chambers,
Ranade Road, Dadar (W), Mumbai-400 028

...Respondent

APPEARANCE:

Shri S.S. Gupta, Chartered Accountant for the appellant

Shri N.N Prabhudesai, Superintendent (AR) for the respondent

WITH

EXCISE APPEAL NO: 1380 OF 2012

[Arising out of Order-in-Original No: 16 to 78/PKA/Th-II/2012 dated 31st May,2012 passed by the Commissioner of Central Excise, Thane – II.]

Vijai Metal Works
Delhi Gate, Rewari Haryana-123401

...Appellant

versus

Commissioner of Central Excise
Thane – II, 4th floor, Nav Prabhat Chambers,
Ranade Road, Dadar (W), Mumbai-400 028

...Respondent

APPEARANCE:

None for the appellant

Shri N.N Prabhudesai, Superintendent (AR) for the respondent

AND

EXCISE APPEAL NO: 1381 OF 2012

[Arising out of Order-in-Original No: 16 to 78/PKA/Th-II/2012 dated 31st May, 2012 passed by the Commissioner of Central Excise, Thane – II.]

Vipin Kumar Gupta
Vijai Metal Works, Delhi Gate, Rewari
Haryana-123401

...Appellant

versus

Commissioner of Central Excise
Thane – II, 4th floor, Nav Prabhat Chambers,
Ranade Road, Dadar (W), Mumbai-400 028

...Respondent

APPEARANCE:

None for the appellant

Shri N.N Prabhudesai, Superintendent (AR) for the respondent

CORAM:

HON'BLE MR S. K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)

FINAL ORDER NO: A/ 85071-85073 /2022

DATE OF HEARING:	18/01/2022
DATE OF DECISION:	18/01/2022

PER: S. K. MOHANTY

Heard both the sides and perused the records.

2. When the matter was called for hearing, Learned Authorised Representative appearing for Revenue submitted that the present adjudication order dated 31.05.2012 passed by the Learned Commissioner of Central Excise, Thane–II was appealed against before the Tribunal by other Notices/ appellants and that the Tribunal vide order No. A/124 to 194/13/EB/C-II dated

29.01.2013 had remanded the matter for *denovo* consideration. Accordingly, the Learned Authorised Representative prayed for remanding the present matters to the original authority for a decision on merit in the line of the observations made by the Tribunal.

3. On perusal of the records, we find that this Tribunal by order dated 29th January, 2013 has remanded a batch of appeals (62 Nos.) on the ground that principles of natural justice have been violated by the adjudicating authority in as much as cross examination of various persons were not afforded and also the relied upon documents/records were not provided to the noticees before adjudication of the dispute. Since the Tribunal has remanded the matter by keeping all the issues open for discussion by the original authority, we are of the view that the present appeals cannot be decided in isolation inasmuch as the issue to be addressed by the original authority in the case of *denovo* adjudication proceedings, will have the ultimately effect for deciding the fate of the present appeals. Hence, we are of the considered view that these appeals should also be remanded to the original authority for *denovo* adjudication.

4. Therefore, by setting aside the impugned order, the matter is remanded to the original authority to decide the issue as per the direction contained in the order dated 29th January 2013 passed by the Tribunal. Needless to say that opportunity of personal hearing should be granted to the present appellants

before deciding the issues afresh.

5. In the result, the appeals are allowed by way of remand.

(Dictated and Pronounced in open court)

(C J Mathew)
Member (Technical)

(S.K. Mohanty)
Member (Judicial)

**/as*