CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH

Service Tax Appeal No. 86505 of 2019

(Arising out of Order-in-Appeal No. MKK/516/RGD APPELLANT/2018-19/4228 dated 27.02.2019 passed by the. Commissioner of Central tax, CE & ST, Raigarh (Appeals).)

M/s Arpeo Data Research Pvt. Ltd. **.....Appellant**
A-101/102, Supreme Business Park,
Hiranandani Gardens,
Powai, Mumbai

VERSUS

The Commissioner, CGST, Navi Mumbai **.....Respondent**
10th Floor, Satra Plaza, Palm Beach Road,
Sector 19 D, Vashi
Navi Mumbai

APPEARANCE:

Shri , Advocate for the appellant
Shri, (AR) for the respondent

CORAM: HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER No: A/86052 / 2022

DATE OF HEARING : 02.11.2022
DATE OF DECISION : 02.11.2022

Per: AJAY SHARMA

This appeal pertains to denial of refund of Cenvat Credit of Rs.14,72,361/- under Rule 5 of Cenvat Credit Rules, 2004 which the appellant had claimed on various input services used in the export under the category of *"Management or Business Consultancy"*.

2. I have heard learned counsel for the appellant and learned Authorised Representative for the Revenue and perused the case records. Learned counsel raised a preliminary objection that the principle of natural justice has not been followed by the learned Commissioner (Appeal) while deciding the appeal of the appellant and prayed that the impugned order be set aside on this ground alone and the matter be remanded to the learned Commissioner to decide the matter afresh. Per contra learned Authorised Representative supported the findings recorded in the impugned order and prayed for dismissal of appeal.

3. I have gone through the impugned order. Paragraph 4 of the said order is reproduced hereunder:-

> *"4. Personal hearing was granted on 22/01/2019. Mrs. Pankaj Pai, appeared on behalf of the appellants. Next date of Personal Hearing was granted on 30.01.2019 to explain admissibility of credit on Credit Note/Debit Note. However, no one appeared on behalf of the appellant. Since sufficient chance for personal hearing has been granted, I am deciding the case ex-parte."*

4. Learned Counsel submits that during the personal hearing before the learned Commissioner on 22.1.2019 certain documents/information was asked for by the said authority and one week's time was granted for that. But since the appellant was not able to produce the same within the time granted therefore they requested for 15 days' time to submit additional submissions vide their letter dated 29.01.2019 which was acknowledged also by the office of the Commissioner (Appeals), Raigarh CGST, Central Excise & Service Tax on the very same day. Apparently the said communication for extension of time was not looked into or not taken into consideration by the learned Commissioner while passing the impugned order and he proceeded *ex parte* without affording any further opportunity to

the Appellant. In my view violation of the principle of natural justice itself is sufficient to set aside the impugned order and to remand the matter back to the learned Commissioner (Appeals). Otherwise also, it has been brought to my notice that in yet another Appeal of *M/s. White Crow Research Pvt. Ltd.* which is related to the instant Appeal, on similar lines *ex parte* order was passed by the learned Commissioner therein without considering the letter dated 22.01.2019 requesting for extension of time for submission of additional documents. This Tribunal vide *Final Order No. A/85979/2022 dated 19.10.2022* set aside the order of the Commissioner (Appeals) as being passed in violation of the principles of natural justice and remanded the matter back to the said Appellate Authority.

5. In view of the discussions made hereinabove, without going into the merits of the matter, I am setting aside the impugned order and remanding the matter back to the learned Commissioner (Appeals) for deciding the appeal afresh after following the principle of natural justice and giving the opportunity of hearing to the appellant. The Appellant is also directed to produce all the case records before the said Authority in which the wish to rely upon in support of their claim/submissions. The Appeal is therefore allowed by way of remand

(Operative part pronounced in open Court)

(Ajay Sharma)
Member (Judicial)

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