CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. 01

Customs Appeal No. 87457 of 2013

(on behalf of Appellant/Respondent)

(Arising out of Order-in-Original No.15/2013/CAC/CC-E/YG/GR.VII dated 31.01.2013 passed by Commissioner of Customs (Export), Mumbai)

M/s Shalimar Wires Industries Ltd. **.....Appellant**
25 Ganesh Chandra Avenue, Kolkata-700 013.

VERSUS

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

WITH

Customs Appeal No. 87458 of 2013

(on behalf of Appellant/Respondent)

(Arising out of Order-in-Original No.15/2013/CAC/CC-E/YG/GR.VII dated 31.01.2013 passed by Commissioner of Customs (Export), Mumbai)

Rajendra Prasad Dhanuka **.....Appellant**
25 Ganesh Chandra Avenue, Kolkata-700 013.

VERSUS

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

AND

Customs Appeal No. 87459 of 2013

(on behalf of Appellant/Respondent)

(Arising out of Order-in-Original No.15/2013/CAC/CC-E/YG/GR.VII dated 31.01.2013 passed by Commissioner of Customs (Export), Mumbai)

Joshi Store Manager **.....Appellant**
25 Ganesh Chandra Avenue, Kolkata-700 013.

VERSUS

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

Appearance:

Shri Mayank Jain along with Kalp Saraiya, Advocates for the Appellants
Shri Manoj Kumar, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 86252-86254/2022

Date of Hearing: 23.12.2022
Date of Decision: 23.12.2022

PER : S. K. MOHANTY

These appeals are directed against the impugned order dated 31.01.2013 passed by the Learned Commissioner of Customs (Export) Mumbai, wherein duty demand was confirmed on the appellants alongwith interest and also penalties were imposed under various provisions of the Customs Act, 1962.

2. When the matter was called, learned Advocate appearing for the appellant submitted that the impugned order was passed without affording any opportunity to the appellant either for filing the reply to show cause notice or for attending the personal hearing before the adjudicating authority. Thus, he submitted that there is gross violation of the principles of natural justice, and accordingly, the matter should be remanded to the original authority for granting opportunity of personal hearing before deciding the matter afresh.

3. On the other hand, learned Authorized Representative for Revenue reiterated the findings recorded in the impugned order and also fairly concedes that matter should go back to the original

authority for grant of personal hearing and thereafter, for passing of fresh adjudication order.

4. Heard both sides and perused the records.

5. On perusal of the case records, more specifically the impugned order dated 31.01.2013, we find that the original authority has not afforded any opportunity of personal hearing and also the appellants were not provided with any opportunity for filing of reply to the show cause notice. Therefore, we are of the view that the present order was passed by the adjudicating authority in complete violation of principles of natural justice, and accordingly, the matter is required to be remanded to the original authority for adherence of the Principles of natural Justice, by allowing the appellants to file reply to the show cause notice as well as for grant of opportunity of personal hearing before adjudication of the dispute.

6. In view of above, the appeals are allowed by way of remand to the original authority for fresh adjudication of the matter. Needless to say that opportunity of personal hearing should be granted to the appellants before deciding issue afresh.

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

(Dictated and pronounced in the open court)

(C.J. Mathew)
Member (Technical)

(S. K. Mohanty)
Member(Judicial)

SM/YS