CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 85487 OF 2025

[Arising out of Order-in-Original No: CC-GSS/58/2023-24 Adj.(I) ACC dated 28th March 2024 passed by the Commissioner of Customs (Import), Air Cargo Complex, Mumbai.]

Levia Technologies Pvt Ltd
Mayuresh Delta Tower-3, Sector-10/B, Ulwe
Navi Mumbai – 410206 … ***Appellant***

versus

Commissioner of Customs (Import)
Air Cargo Complex, CSI Airport, Sahar, Andheri (E)
Mumbai - 400099 ***…Respondent***

APPEARANCE:

Shri RK Tomar and Shri Gaurav Sarfare, Advocates for the appellant

Shri Krishna Azad, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 86005/2025

DATE OF HEARING: 09/05/2025
DATE OF DECISION: 09/05/2025

PER: C J MATHEW

In this appeal of M/s Levia Technologies Pvt Ltd, against order[1]

[1] [order-in-original no. CC-GSS/58/2023-24 Adj.(I) ACC dated 28th March 2024]

of Commissioner of Customs (Import), Air Cargo Complex, Mumbai, it is seen that the issue in dispute pertains to import of ‘computer monitors’ which came to be disposed off thus

> *‘16. Before examining merits of the case, I find thatPersonal Hearing Intimation letterdated 07.07.2024 bearing DIN No. 20240279OA0000999C5F & granting hearing on 27.02.2024, intimation letter dated 06.03.2024 bearing DIN No. 20240379OA000061826A & granting hearing on 12.03.2024, and intimation letter dated 12.03.2024 bearing DIN No. 20240379OA00003353EF& granting hearing on 26.03.2024 were issued to the noticee, but the said noticee did not appear for any of the Personal Hearing. I find that in spite of being given three opportunities, the noticee neither preferred to join adjudication proceedings nor submitted any written submission to support their case. Further, I find that the noticee has not even requested for adjournment of any of the personal hearing opportunities granted to them. I also find that the noticee hadalso not responded to the said SCN dated 21.06.2023 and didn't provide any written submission. It is observed that sufficient opportunities have been given to the noticee but they chose not to join adjudication proceedings. Considering the scenario, there is no option but to proceed with the adjudication proceedings in terms of merit of the case.’*

2. We find from

> *‘16. Further it is claimed in the impugned order that Personal Hearing Intimation Letter dated 07-07-2024 for PH on 27-02-2024, Intimation Letter dated 06-03-2024 for PH on 12-03-2024 and Intimation Letter dated 12-03-2024 for PH on 26-03-2024 were issued to the Appellant. However, the*

> *Appellant received only one the Intimation Letter dated 12-03-2024 on 27-03-2024 fixing the PH on 26-03-2024. The Appellant (Ms. Swati Mahajan Director of the Appellant Company), at her earliest, sent request by email dated 27-03-2024 to the Customs Authorities for adjournment of the PH and fixing the PH on another date. A copy of the printout of the email dated 27-03-2024 is placed as EXHIBIT-F herewith.*
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> *17, However, no response was received from the Customs Authorities or the Adjudicating Authority. Further, the issuance of the impugned order also did not come to the knowledge of the Appellant until on 21-08-2024, when the Appellant (Ms. Swati Mahajan Director of the Appellant Company) was in the Air Cargo Complex, Sahar, Mumbai regarding their import consignments, when a photocopy of the Demand Notice dated 12-07-2024 was handed over to her by the Customs Officer demanding to know whether payment of the demanded amount as per the impugned order has been made. When the Appellant stated that they have not received the impugned order, a copy of the same was handed over to her by the Customs Officer. The same was acknowledged by the Custom Officer by return email dated 21-08-2024.'*

in the grounds of appeal that the dispute before us turns on adherence to principle of natural justice.

3. We have heard Learned Counsel for the appellant and Learned Authorized Representative.

4. It would appear that fastening the detriments arose from, and were charged upon, several factual considerations on which the

appellant herein wished to make submissions. Notwithstanding the request of the appellant for adjournment to a suitable date, the original authority chose to proceed with the adjudication *ex-parte*. This is in violation of principles of natural justice and, especially, considering the factual grounds on which the impugned show cause notice had been issued. In the interest of justice, it would be appropriate to set aside the impugned order and remand the matter back to the original authority for a fresh decision after affording the appellant herein opportunity to be heard in person.

5. Appeal is thus allowed by way of remand.

(Operative part of the order pronounced in the open court on 9th May 2025)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*