

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,  
MUMBAI  
REGIONAL BENCH**

**COURT NO.5**

**Customs Appeal No. 86371 of 2016**

(Arising out of Order-in-Original No. MUM-CUS-AP-II-ASC-24-2015-16 dated 18.03.2016 passed by the Principal Commissioner of Customs, CSI Airport, Mumbai)

**Excel Production Audio Visuals P. Ltd.**

**Appellant**

4<sup>th</sup> Floor, Powai Plaza, Hiranandani Gardens,  
Powai, Mumbai 400 076.

*Versus*

**Commissioner of Customs (II) – (Airport  
Special Cargo)**

**Respondent**

6<sup>th</sup> Floor, Avas Corporate Point, Makwana Lane,  
Andheri-Kurla Road, Behind SM Centre,  
Andheri (E), Mumbai 400 059.

WITH

**Customs Appeal No. 86378 of 2016**

(Arising out of Order-in-Original No. MUM-CUS-AP-II-ASC-24-2015-16 dated 18.03.2016 passed by the Principal Commissioner of Customs, CSI Airport, Mumbai)

**Esmail Kapasi**

**Appellant**

Excel Production Audio Visuals P. Ltd.,  
4<sup>th</sup> Floor, Powai Plaza, Hiranandani Gardens,  
Powai, Mumbai 400 076.

*Versus*

**Commissioner of Customs (II) – (Airport  
Special Cargo)**

**Respondent**

6<sup>th</sup> Floor, Avas Corporate Point, Makwana Lane,  
Andheri-Kurla Road, Behind SM Centre,  
Andheri (E), Mumbai 400 059.

Appearance:

Shri J.C. Patel with Ms. Shamita Patel, Advocates, for the Appellant  
Shri Deepak Sharma, Authorised Representative, for Respondent

**CORAM:**

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

**HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)**

Date of Hearing: 22.12.2025

Date of Decision: 22.12.2025

**FINAL ORDER No. 86991-86992/2025**

**PER: DR. SUVENDU KUMAR PATI**

We have heard on the appeals from both the sides.

2. Learned counsel for the appellant submits that the order of the Commissioner was set aside by Hon'ble Bombay High Court vide order dated 21.12.2015 for unreasonable delay in passing the order after conclusion of hearing and there was a clear direction in the said order for hearing of the matter afresh and readjudicating the same without being influenced by the earlier observation and findings, but the same has not been complied with, which is assailed before this Tribunal.

3. In placing a para-wise comparative analysis at page 8 of his written submission, learned counsel for the appellant further submits that even para 3.2 to 3.12, in which the findings have been noted are just paraphrasing of the previous order that was passed on 30.03.2015, which had been struck down by Hon'ble High Court and, therefore, there is a requirement of remanding the matter back for adjudication and hearing afresh after setting aside the same order that is not in conformity with the direction passed by Hon'ble High Court.

4. Learned AR objects to such submission and states that when the ultimate outcome is in favour of the department as has been set through precedent decisions, namely in appellant's own case also, there cannot be two separate findings that would emerge from the same person who passed the earlier order and in the event of any violation of the direction of Hon'ble High Court, the proceedings before the Hon'ble High Court is supposed to be initiated again in the matter and not before this appeal.

5. We take note of the submissions and compare both the orders and we found that there is force in the submission made on behalf of the appellant as even the sentence structures in both the orders are identical. We, therefore, consider it proper to set aside the order passed by the Commissioner and remand the matter back for adjudication afresh on the basis of the direction contained in the order passed by Hon'ble High Court on 21.12.2015.

6. Hence the appeals are allowed by way of remand to the Commissioner for *de novo* adjudication as per the above direction and for that purpose, the order passed by him vide Order-in-Original No.

MUM-CUS-AP-II-ASC-24-2015-16 dated 18.03.2016 is hereby set aside.

7. Since the earlier order was set aside by Hon'ble High Court on the ground of unreasonable delay, these proceedings should be completed within a period of six months from the date of communication of this order.

8. Both sides are to co-operate and participate in the adjudication proceedings.

(Order dictated in the open court)

**(Dr. Suwendu Kumar Pati)**  
**Member (Judicial)**

**(M.M. Parthiban)**  
**Member (Technical)**

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