CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. IV

Customs Appeal No. 87299 of 2025

[Arising out of Order-in-Appeal No. 755(CRC-I)/2025(JNCH)/Appeals dated 01.07.2025 passed by Commissioner of Customs (Appeals-II).]

J Poonamchand and Sons **.... Appellant**
303, Creative Industrial Centre, NM Joshi Marg,
Lower Parel (E), Mumbai-400 011.

Versus

Commissioner of Customs, Nhava Sheva-V **....Respondent**
JNPT, Custom House, Nhava Sheva,
Raigad, Maharashtra-400 707.

APPEARANCE:

Shri Devraj Kansara, Advocate for the Appellant
Shri Jitesh Jain, Authorized Representative for the Respondent

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

FINAL ORDER NO. 85629/2026

Date of Hearing: 04.05.2026

Date of Decision: 04.05.2026

Both sides are heard on the appeal and the same is taken up for order.

2. Adjustment of refund claim of Rs.12,20,115/- paid twice on clearance of imported consignments, of which the first one was not reflected on the ICE portal due to technical glitch, on the ground that some tax due at Noida Commissionerate was pending against the appellant, that received affirmation by the Commissioner (Appeals) in the above referred order, is assailed before this Tribunal.

3. During the course of hearing, learned counsel for the appellant submitted that the appellant had to pay twice the duty on 28.05.2020 and 29.05.2020 with little more amount towards interest component, for release of its imported consignments and subsequently sought for refund of Rs.12,20,115/- that was allowed in favour of the appellant but was appropriated against some tax dues of Rs.13,48,516/- without the appellant being noticed of such recovery proceedings or noticed by the refund sanctioning authority or having been heard by the said authority which was in gross violation of the principles of natural justice, but the appellant after having succeeded against that confirmation of tax dues at the Noida

Commissionerate in appeal filed before the Commissioner (Appeals) at Noida, it had pleaded before the Commissioner (Appeals) at Mumbai that when the said confirmation of demand of Noida Tax Authority was set aside, the appellant is entitled to get back the amount of refund with interest, but the Commissioner (Appeals) not acceded to the request and submission of the appellant and passed the order confirming such adjustment as the tax due was subsisting on the day of passing of order by the Refund Sanctioning Authority.

4. Learned AR supported the reasoning and rationality of the order passed by the Commissioner (Appeals) but he admitted the fact that such adjustment was done without reference to the provision of law, without a notice to the appellant and without a personal hearing being granted to it.

5. Taking note of the submission, I am of the considered view that when tax due at Noida Commissionerate was no more existing, by the time learned Commissioner (Appeals) at Mumbai passed the order and when it is manifestly demonstrated to him that principles of natural justice was violated in not extending opportunity of being heard to the appellant and more particularly because of the glitch in the appellant's portal, it had to pay duty twice for clearance of goods and is subjected to harassment since the first payment was made on 28.05.2020, the matter deserves to be reheard by the Refund Sanctioning cum Adjudicating Authority, who should pass appropriate orders on the basis of changed situation prevailing now, after the order for recovery passed by the Noida Commissionerate vide order-in-original dated 06.07.2020 has been set aside by order-in-appeal dated 04.01.2022 as on the earlier occasion, there was gross violation of principles of natural justice in not providing the appellant the opportunity of being heard.

6. The matter being quite year old, the Adjudicating Authority is advised to dispose of the *de novo* proceedings within three months of receipt of this order. Appellant shall participate in the said proceedings with due notice of hearing.

7. The appeal is allowed by way remand in the above terms.

(Dictated and pronounced in open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

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