



सत्यमेव जयते

आयुक्त (अपील) का कार्यालय,
Office of the Commissioner (Appeal),
 केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद
Central GST, Appeal Commissionerate, Ahmedabad
 जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
 CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
 07926305065- टेलिफैक्स 07926305136



स्पीड पोस्ट

- क फाइल संख्या : File No : V2(84)95 to 99 & 102 to 103/Ahd-South/2019-20 / 14399 7014403
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-EXCUS-001-APP-136 to 142-2019-20**
 दिनांक Date : **19-03-2020** जारी करने की तारीख Date of Issue 02/06/2020
 आयुक्त (अपील) द्वारा पारित
 Passed by **Shri Akhilesh Kumar, Commissioner (Appeals)**
- ग Arising out of Order-in-Original No. **IV/16-02/2019-ref/43** दिनांक: **13.06.2019** , **IV/16-48/GST-Refund/Misc./17-18/238** दिनांक: **20.05.2019**, **Div-III/RFD-01A/Misc/2018-19** दिनांक: **29.05.2019** , issued by Assistant Commissioner, Div-II, Central Tax, Ahmedabad-South
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
Adani Power(Mundra)Ltd
Ahmedabad

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person aggrieved by this Order-In-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :

Revision application to Government of India :

- (1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली : 110001 को की जानी चाहिए।
- (i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :
- (ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रक्रिया के दौरान हुई हो।
- (ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.



(क) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(A) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ख) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(B) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क को भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(c) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(क) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में 2nd माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद -380004

(a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2nd floor, Bahumali Bhawan, Asarwa, Girdhar Nagar, Ahmedabad : 380004. in case of appeals other than as mentioned in para-2(i) (a) above.



The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appel) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

- (3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellate Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

- (4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूचि-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

- (5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

- (6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

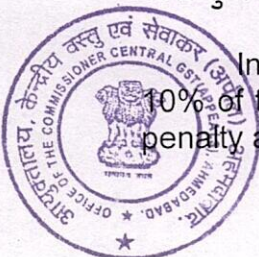
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."

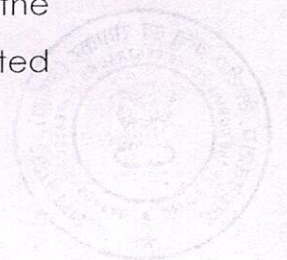


ORDER-IN-APPEAL

M/s. Adani Power (Mundra)Limited, Adani Corporate House, Shantigram, Near Vaishnodevi Circle, Ahmedabad-383421 [henceforth- 'appellant'] have filed the present seven appeals against letters mentioned herein under (henceforth, 'impugned letters') issued by the Assistant Commissioner. CGST,Division-II, Ahmedabad-South (*hereinafter referred to as 'adjudicating authority'*) in the matter of refund claims:

| Sr. No. | Appeal No. | Letter F. No. and date |
|---------|-----------------------------|--|
| 1. | V2(84)95/Ahd-South/2019-20 | DIV-IV/16-02/2019-Ref dated 13.06.2019 |
| 2. | V2(84)96/Ahd-South/2019-20 | DIV-IV/16-02/2019-Ref/43 dated 13.06.2019 |
| 3. | V2(84)97/Ahd-South/2019-20 | DIV-IV/16-48/GST-Refund/Misc./17-18/238 dated 20.05.2019 |
| 4. | V2(84)98/Ahd-South/2019-20 | DIV-IV/16-48/GST-Refund/Misc./17-18/238 dated 20.05.2019 |
| 5. | V2(84)99/Ahd-South/2019-20 | DIV-IV/16-48/GST-Refund/Misc./17-18/238 dated 20.05.2019 |
| 6. | V2(84)102/Ahd-South/2019-20 | DIV-IV/16-02/2019-ref/43 dated 13.06.2019 |
| 7. | V2(84)103/Ahd-South/2019-20 | DIV-III/RFD-01A/Misc/2018-19 dated 29.05.2019 |

2. The facts of the case, in brief, are that the appellant is a co-developer of multi-product Special Economic Zone(SEZ) which has been set up at village Tundra,,Taluka Mundra, District-Kutch. In pursuant to the scheme of Arrangement between Adani Power Limited ('APL') and the appellant, the assets and liabilities in respect of M/s. Mundra Power Generation Undertaking Plant were transferred to the appellant. The appellant engaged in generation of power as authorized operations in SEZ, filed refund claims in term of Rule 25 of SEZ Rules of duty paid by the various suppliers of inputs which were procured for undertaking authorized operations in SEZ. Said refund claims were returned to the claimants mainly stating that the same does not fall within the jurisdiction of the division of adjudicating authority. The appellant thereafter re-submitted



refund claims clarifying the issue of jurisdiction. However, said refund claim papers were again returned by the adjudicating authority to the claimant-appellant under impugned letters without going into merit of cases stating mainly that *"possibility of claiming refund by the manufacturer/ supplier cannot be ruled out, no endorsement has been made by supplier on invoices, this division is neither your jurisdictional Customs and Central Excise Authority nor of the Supplier, documents filed are no where considered as rebate claim applications and therefore the same are returned without going into the merits of the case, you are directed to file refund claim to the proper sanctioning authority under which you are registered"*

3. Being aggrieved with the impugned letters, the appellant preferred these appeals contesting, *inter alia*, that as per Rule 47(5) of the SEZ Rules, 2005 the claim is to be submitted to jurisdictional Customs Central Excise authorities. The goods were procured by the appellant from units situated under Ahmedabad-South Commissionerate, the appellant submitted claims to a division under Ahmedabad-South Commissionerate. Therefore claims are submitted within jurisdictional division; that no opportunity to reply the objections were given; that the procurement of inputs without payment of duty was not allowed in light of power guidelines dated 06.04.2015, the appellant procured the same on payment of duty keeping in mind that non procurement of goods may adversely affect the operations and power generation hampering supply of power to Gujarat and Haryana; that when no duty is leviable on goods procured in to SEZ, collection thereof is unlawful and require to be refunded; that where goods are brought into SEZ without claiming upfront exemption, there is no requirement of filing ARE-1 or Bill of Export. Etc.,

4. Opportunities for Personal hearings were given to the appellants on 11.11.2019, 07.01.2020, 04.02.2020 & 25.02.2020. However, no one appeared on behalf of the appellant. I therefore, proceed to decide the case on the basis of evidence available on record without granting any further opportunity.

5. I have carefully gone through the facts of the cases and submissions made in the appeal memorandums. On perusal of records, I observe that initially, the refund claims were returned by the adjudicating authority on the ground that the same does not fall within the jurisdiction of the division of adjudicating authority. Second time also the claims were



returned to the claimant-appellant without going into merit of cases mainly stating that this division is neither their jurisdictional Customs and Central Excise Authority nor of the Supplier; that documents filed are nowhere considered as rebate claim applications, that possibility of claiming refund by the manufacturer/supplier cannot be ruled out, that no endorsement has been made by supplier on invoices. It was also directed to file refund claim to the proper sanctioning authority. Thus, in both the instances the claim papers were returned to the appellant without going into merit of the same. Therefore, the moot question that needs to be decided whether the adjudicating authority was right in returning the refund claims observing as above?

6. Since, the present appeals have been preferred against the impugned letters under which refund claim papers were returned to the appellant, it would be relevant to reproduce decision contained under said letters which I reproduce below:

*"In view of the above, the documents filed by you are, in no way, considered as rebate claim application & therefore, the same is hereby **returned** herewith without going the merit of the case."*

7. I observe that vide impugned letters the Assistant Commissioner has returned refund application to the appellant without entertaining. It is also directed to file refund claim to the proper sanctioning authority. I observe that said communications is not of the nature of speaking order without telling reasons for rejection of refund claim. Whatever has been communicated under impugned letters pertains to returning of refund application only. Refund claims are neither rejected nor sanctioned under these communications. In so far as the claims have not been taken up on its merit by the refund sanctioning authority and no decision on sanction/rejection of the same has been communicated therein, it would be pre-mature to conclude that refunds have been rejected under impugned letters. I therefore, observe that there is no decision or order of refund sanctioning authority on merit of the case i.e. decision or order on sanctioning/rejecting of refund claims are not available in said letters against which appeals have been preferred. In other word, the issue of eligibility of refund to the appellant has not been spoken by the lower authority under impugned letter.



8. Now, coming to the question of jurisdictional authority under whose jurisdiction the refund claims pertains, it is argued by the appellant that as per Rule 47(5) of SEZ Rules, 2005 the claim is to be submitted to jurisdictional Customs Central Excise authorities and that the goods were procured by the appellant from units situated under Ahmedabad-South Commissionerate, the appellant submitted claims to a Division under Ahmedabad-South Commissionerate. Therefore claims are submitted within jurisdictional division. Regarding the jurisdiction, I observe that clause 5 of the Notification dated 05.08.2016 (MC&I(DC) Notification No.GSR(E) dated 05.08.2016) under Rule 47 of Special Economic Zone, 2006 has provided a procedure, for claiming Refund. Under said procedure, an entity claiming refund of duty for their authorized operations under Special Economic Zone Act, 2005, shall claim such refund from jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, the Central Excise Act, 1944 and the Finance Act, 1994 and the rules made there under or the notifications issued there under. I find that the 'Jurisdictional Central Excise Authorities' would obviously refer to the jurisdiction in which duty has been paid. Similar issue came up before the Hon'ble Supreme Court in the case of Oswal Chemical & Fertilizer Ltd v/s CCE, Bolpur 2015 (318) 617 (SC) wherein it was held that;

Refund claim - Locus standi - Duty paid by purchaser of Naphtha to petroleum company, who had supplied it, and in turn paid to Department - *HELD* : Purchaser had locus standi to claim refund - Plea that only manufacturer could claim it, rejected - Section 11B of Central Excise Act, 1944 stipulates that "any person" is eligible to claim refund of duty, since manufacturer generally passes on burden of Excise duty to buyer, who is ultimate person aggrieved with payment of duty, and can seek its refund - Also, clause (e) of Explanation (B) of Section 11B ibid stipulates that relevant date in case of person, other than manufacturer, is date of purchase of goods, which indicates that person other than manufacturer can maintain refund claim. [paras 7, 8, 12]

Regarding the filing of refund claim in territorial jurisdiction the hon'ble supreme Court in above case held that:

Refund claim - Territorial jurisdiction - Naphtha purchased from depot at Rajbandh under petroleum company having refinery at Durgapur - Show cause notice was issued and refund claim was filed at Durgapur - *HELD* : Central Excise Authorities at Durgapur had requisite jurisdiction over depot as it was under Durgapur Commissionerate - Section 11B of Central Excise Act, 1944. [para 9]

Similar issue of jurisdiction was decided by the Hon'ble CESTAT Bench of Kolkata in Appellants own case, where the Hon'ble CESTAT in case of



Adani Power Ltd v/s Commissioner of Central Excise, BBSR-II(017-TIOL-3453-CESTAT-KOL)held that:

7. The next point is for jurisdiction to prefer to such claim. The lower authorities held that in terms of SEZ Act, the appellant is situated outside territory of India and no claim can be entertained by the jurisdictional Central Excise Officers. We note that the similar issue has come up before the Hon'ble Gujarat High Court in the case of *Anita Exports v. Union of India* : 2015 (320) E.L.T. 713 (Guj.) and *Roxul Rockwool Insulation India Pvt. Ltd. v. Union of India* : 2016 (334) E.L.T. 412 (Guj.). The Hon'ble High Court after examining the claim for refund under Customs Act, 1962, held that when the duty is collected by the Customs authorities, excess, if any has to be dealt with by the said authorities only. In the present case, the duty of excise has been paid by M/s. Mahanadi Coal Field Ltd., though by applying the relevant provisions of law, they ought not to have paid the duty as the supplies are to be recognized SEZ unit/developer. Regarding the duty paid nature of the product, receipt of the said product by the appellant, there are no disputes. In fact, the Id. Counsel for the appellant, submitted that the details of duty paid on coal covered by the various documents has been certified by the specified officer-in-charge of the appellant in the SEZ.

8. We also note that the jurisdiction issue has been under consideration with the Ministry of Finance as well as Ministry of Commerce and ultimately the Ministry of Commerce issued Notification dated 5-8-2016. This Notification specified that the refund, demand, jurisdiction, review and the appeal with reference to various operations under SEZ Act, 2005, shall be with a jurisdiction of Central Excise authorities in accordance with the relevant provisions of Customs Act, 1962, Central Excise Act, 1944 and Finance Act, 1994. We find that the said Notification makes the position amply clear on the question of jurisdiction of Central Excise officers to deal with the claim in the present matter.

9. While dealing with similar issue in appellant's own case Commissioner(Appeal-II),Central Tax, Pune under OIA No.PUN-CT-APP11-000-053-18-19 DATED 18.06.2018 also relied on the judgments supra of Hon'ble Apex Court and CESTAT Bench Kolkata and set aside order of refund sanctioning authority wherein also refund claim was returned. The present appeals involving similar matter, I'm not taking divergent view.

10. Applying the ratio of the decisions held in the above cases, which I observe squarely applicable to the issue of jurisdiction in the present case, I am of the opinion that the appellant had purchased the goods by paying an amount, including Central Excise duty suffered by the manufacturer, as such the burden of duty of Excise paid by the manufacturer has passed on to the buyer who in the present case is the Appellant. Therefore, the appellant who is the ultimate person aggrieved with payment of duty, can seek its refund from the 'Jurisdictional Central Excise Authorities' to where the duty was paid.



11. I find from the invoices submitted by the Appellant that it pertains to Ahmedabad and some pertains to Vatva also. No findings have been given on the claims while not entertaining it. Besides that the principle of natural justice has not been followed in these cases. Hence, I find that refund claims in question should be taken up on merit and suitable speaking order should be passed by the adjudicating authority instead of returning the claims. Furthermore, the claimant is neither served with any show cause notices nor given opportunity of personal hearing before returning of the refund claims and hence principles of natural justice have been violated. As regards the issue that the appellants were not given any opportunity to present their case personally as per the principle of natural justice; I consider that the adjudication proceedings shall be conducted by observing principles of natural justice. Order passed in violation of the principles of natural justice is liable to be set aside by Appellate Authority. Natural justice is the essence of fair adjudication, deeply rooted in tradition and conscience, to be ranked as fundamental. The purpose of following the principles of natural justice is the prevention of miscarriage of justice. The first and foremost principle is what is commonly known as *audi alteram partem* rule. It says that no one should be condemned unheard. The Show Cause Notice is the first limb of this principle. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order/communication is passed against him. This is one of the most important principles of natural justice. The Hon'ble Supreme Court has further elaborated the legal position in the case of Siemens Engineering and Manufacturing Co. of India Ltd. v. Union of India and Anr. [AIR 1976 SC 1785], as under: -

" If courts of law are to be replaced by administrative authorities and tribunals, as indeed, in some kinds of cases, with the proliferation of Administrative Law, they may have to be so replaced, it is essential that administrative authorities and tribunals should accord fair and proper hearing to the persons sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them. Then alone administrative authorities and tribunals exercising quasi-judicial function will be able to justify their existence and carry credibility with the people by inspiring confidence in the adjudicatory process. The rule requiring reasons to be given in support of an order is, like the principle of audi alteram partem,

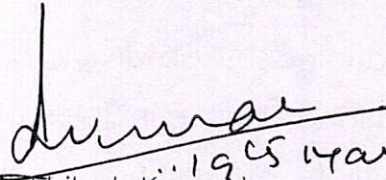


a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law."

12. The adjudicating authority should, therefore, bear in mind that no material should be relied in the adjudication order to support a finding against the interests of the party unless the party has been given an opportunity to rebut that material. Therefore, I remand all the seven cases back to the adjudicating authority to pass appropriate orders afresh on merit wherein claim involves suppliers of goods under his jurisdiction ensuring principle of natural justice.

13. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

All the seven appeals filed by the appellant stands disposed of in above terms.

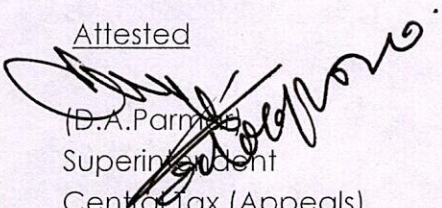

(Akhilesh Kumar)
19/05/2020

Commissioner, CGST, Appeals

Date:



Attested


(D.A. Parmar)
Superintendent
Central Tax (Appeals)
Ahmedabad.

By R.P.A.D.

To,

M/s. Adani Power (Mundra) Limited,
Adani Corporate House, Shantigram,
Near Vaishnodevi Circle, Ahmedabad-383421

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Principal Commissioner of Central Tax, Ahmedabad-South.
3. The Addl./Joint Commissioner, Central Tax (System), Ahmedabad – South.
4. The Deputy Commissioner, CGST Division-II, Ahmedabad-South.
- ✓ 5. Guard File.
6. P.A. File

