

Engineering Technico (India) Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-08-2006

Reported in : (2006)(108)ECC404

Judge : S Kang, Vice-, N T C.N.B.

Appellant : Engineering Technico (India)

Respondent : Commissioner of C. Ex.

Judgement :

2. The grievance of the appellant is that the adjudicating proceedings took place ex parte, inasmuch as the copies of the relied upon documents were not given to the appellant and in the absence of those documents, the appellant was not in a position to understand Revenue's case and the evidence relied upon and offer any meaningful defence. The record also shows that even unrelayed upon documents seized from the appellant remain unreturned.

3. A perusal of the impugned order of the Commissioner (Appeals) makes it clear that merits of the case have not been dealt with at all.

4. It is well settled that a noticee must be supplied copies of materials relied upon against it. This has not taken place in this case. Further, the Revenue authorities have no use for and right to the unrelayed upon documents. Therefore, the continued retention of those documents is wholly unjustified. The assessee may also have use of those documents in preparing its defence. Clearly, the

proceedings in the present case have not taken place in the manner expected in a fair system. As already observed, the Commissioner has also not gone into the merits of the dispute.

5. In the result, the impugned order is set aside and the case is remanded to the original authority for a fresh adjudication after supplying the appellant copies of the relied upon documents. The appellant shall also be returned unrelieved upon documents seized from it. Needless to say, the appellant shall also be given reasonable opportunity to file a consolidated reply and to be heard before passing the order.

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