

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CENTRAL EXCISE APPEAL NO.95 OF 2014

Tanzeem Printers Pvt. Ltd.

...Appellant.

versus

The Commissioner of Central
Excise, Mumbai-1

..Respondent.

.....

Mr. Prakash Shah i/b PDS Legal for the Appellant.

Mr. Shailesh Kantharia i/b Anamika Malhotra for the Respondent.

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CORAM : B.R. GAVAI &
A.S. GADKARI, JJ.

23rd March, 2015.

P.C. :

The Appellant has approached this Court being aggrieved by the order passed by the learned CESTAT dated 21st June 2013 thereby dismissing the appeal filed by the present Appellant.

2. The Appellant had approached the learned CESTAT being aggrieved by the order passed by the Commissioner, Central Excise thereby confirming a demand for an amount of Rs.6,39,569/- along with interest and penalty of equal amount. The Revenue had also filed an appeal before the learned CESTAT being aggrieved by the order passed by the Commissioner (Appeals). The learned CESTAT dismissed the appeal of the Appellant and allowed the appeal of the Revenue. Being aggrieved thereby, the Appellant approached the Apex Court. The Hon'ble Supreme Court by order dated 27th

November, 2008 in Civil Appeal No.7034 of 2001 and by order dated 16th July, 2012 in Civil Appeal No.4366 of 2009 allowed the appeals and remanded the matters for fresh adjudication before the learned Tribunal. The learned Tribunal by the impugned order dismissed the appeal of the Appellant and allowed the appeal of the Revenue.

3. The basic grievance raised in the present Petition is that prior to hearing of the appeal, no notice came to be issued to the Appellant and as such, the order is in breach of the principles of natural justice.

4. Mr. Shah, learned counsel submitted that the very issue of passing an order adverse to the interest of a party without following the principles of natural justice is a question of law and as such, it is not necessary to go to the other issues.

5. Mr. Kantharia, learned counsel on the contrary submits that no issue of law is at all raised in the present Appeal and as such, the Appeal deserves to be dismissed.

6. On the request made by us, learned counsel appearing for the Revenue has not been in a position to place on record a copy of the notice which came to be issued to the Appellant prior to the impugned order being passed.

7. By now, it is a settled principle of law that every order which adversely affects the rights of a party has to be preceded by the principles of natural justice unless the provision expressly or by necessary implication provides for the exclusion of the same.

8. In any case, every quasi judicial authority is bound to follow the principles of natural justice.

9. In view of the matter, we find that the Appeal deserves to be allowed on the short ground.

10. The impugned order is, therefore, quashed and set aside. The matter is remitted back to the learned CESTAT for hearing it afresh in accordance with law. Needless to say that the learned Tribunal shall give a notice of hearing to both the parties before it adjudicates the matter.

(A.S. Gadkari, J.)

(B.R. Gavai, J.)