

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CENTRAL EXCISE APPEAL NO. 08 OF 2019

Nath Pulp and Paper Mills Ltd.,
Aurangabad .. Appellant

Versus

The Commissioner Central Excise
and Customs Aurangabad .. Respondent

Shri Raviraj R. Chandak, Advocate for the Appellant.
Shri Dwarkadas S. Ladda, Advocate for Respondent.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 30TH JULY, 2019.

FINAL ORDER :

. Mr. Chandak, the learned advocate for the appellant submits that, the appellant had filed rectification application before the Tribunal. The Tribunal disposed of the said rectification application on the premise that, the advocate of the applicant under letter dated 25th July, 2017 sought decision on the basis of record without personal appearance. According to the learned counsel rectification application was filed on 11th September, 2018. So reference to the communication dated 25th July, 2017 is misplaced. According to the learned counsel, the appellant be given an opportunity to put forth its case.

2. Mr. Ladda, the learned counsel for the department submits that, actually the appellant has put forth a fraudulent case. The appellant has no case on merits.

3. In the present matter, we would not be going into merits of the application. As the limited prayer made by the learned advocate for the appellant is that, rectification application is decided without any opportunity of hearing to the appellant, we are entertaining this appeal. No doubt, scope of rectification application would be limited. However, it would be against the principles of natural justice to reject the said application without affording an opportunity to the party.

4. In the light of the above, we set aside the order dated 20th December, 2018 in the rectification application filed by the appellant and remit the matter back to the Tribunal to decide the rectification application afresh after hearing all the parties concerned.

5. The appellant shall appear before the Tribunal on 19th August, 2019. It is made clear that, we have not considered contentions of either of the parties on merits. In view of the above appeal is disposed of. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb / July 19