HIGH COURT OF JUDICATURE AT ALLAHABAD

CENTRAL EXCISE APPEAL No. - 19 of 2026

M/S Sampark Industries Limited

.....Appellant(s)

Versus

Commissioner Of Central Goods And Services Tax

.....Respondent(s)

Counsel for Appellant(s)	:	Atul Gupta
Counsel for Respondent(s)	:	Amit Mahajan, Dhananjay Awasthi

Court No. - 39

HON'BLE SAUMITRA DAYAL SINGH, J.

HON'BLE SWARUPAMA CHATURVEDI, J.

1. Since the issue involves pure legal question of law and parties have already been put to notice, at present, appeal is being decided at the fresh stage with the consent of parties.

2. Heard Sri Atul Gupta, learned counsel for the appellant and Sri Amit Mahajan, learned counsel for the respondent.

3. Present appeal has been filed under Section 35-G of the Central Excise Act, 1944 read with Section 174 of the Central Goods and Services Act, 2017, arising from the order of the Customs Excise and Services Tax Appellate Tribunal, Allahabad (in short, "the Tribunal") in Appeal No.71262 of 2018, dated 13.11.2025. By that order, a two-member bench of the Tribunal has dismissed the appeal of the appellant, *ex parte*.

4. The present appeal has been pressed on the following question of law:

> *Whether in absence of any bench sitting on 06.05.2025- when the case was last listed for hearing (with prior notice to the appellant), the said appeal could have been decided on the next date i.e. on 15.07.2025, for which date, no notice had been issued to the appellant.*

5. Merit issues apart, according to the Tribunal, the case was listed on the dates: 10.07.2019, 30.10.2019, 08.01.2020, 03.02.2020, 30.08.2023,

11.10.2023, 22.11.2023, 08.01.2024, 26.02.2024, 02.07.2024, 21.08.2024, 09.10.2024, 22.11.2024, 08.01.2025, 12.03.2025 and 15.07.2025. The appellant did not appear on any of those dates. Therefore, the appeal was heard *ex parte* against the appellant on 15.07.2025, and order has been passed thereon.

6. Learned counsel for the appellant states, from 10.07.2019 to 12.03.2025, the appellant had participated in the proceedings. However, he may have sought adjournment on certain dates including 12.03.2025. On that date, order was passed in his presence, fixing the next date 06.05.2025. Thereafter, on 06.05.2025, two-member bench of the Tribunal could not be formed in view of Order No.46 of 2025 issued by the Deputy Registrar of Customs, Excise and Service Tax Appellate Tribunal, New Delhi. Thereby, for the period 03.03.2025 to 30.05.2025, only single-member benches were constituted by way of regular roster.

7. In that light, it has been stated at the Bar, that on 12.03.2025, a Special Bench had been constituted and thus, the date came to be fixed for 06.05.2025. The order passed by that Special Bench dated 12.03.2025 reads as under:

> *"There have been several adjournments on the request of the appellant. It is very old appeal of 2018, however, as a letter has been circulated, as last opportunity we list the appeal on 06.05.2025. It is made clear that the appeal shall be decided on merits on the next date of hearing even in the absence of the appellant. "*

8. Again, it is stated at the bar that no bench was formed on 06.05.2025, occasioned by Order No.46 of 2025, dated 25.02.2025 constituting a single-member benches only. On that date, there was no specially constituted bench, to hear the appeal filed by the appellant.

9. In such facts, issue arises if Public Notice No.3 of 2019, dated 18.02.2019 offers any procedure whereunder the Tribunal may not be obligated to communicate to the appellant the next date of hearing, fixed after the date 06.05.2025. For ready reference, the Public Notice No.3 of 2019, dated 18.02.2019 reads as below:

Public Notice No.3/2019

> *The practice of issuing adjournment notice is dispensed herewith in view of the uploading of Daily Orders on the website. All concerned may find the status of listed matters from the website www.cestatnew.gov.in using the hyperlink "Daily Orders" or "Court Proceedings". Orders under detailed dictation will be uploaded separately and will be available in the link "Final Order".* ***The parties may take notice of the adjourned dates from the website and attend the hearing without further notice from the Tribunal.*** *In case the Bench does not sit for any reason the adjourned dates of the listed matters will be uploaded in the "Court Proceedings".*

10. The said public notice only provides that now, no fresh notice is required to be issued since orders (fixing such dates), are uploaded by the Tribunal. Earlier, it was a practice with the Tribunal to issue fresh notices, even for dates when adjournments were granted on the request of the parties. We are mindful that at that stage, sometimes, adjournments were granted against applications, even in the absence of the parties and/or their authorised representatives. While that practice was common and remained applicable for a long duration of time, modification (to that practice) was made after all orders of the Tribunal were required to be uploaded on the website. Thereby, any party to a proceeding, has been enabled to visit the website of the Tribunal and ascertain the correct status of the proceedings by perusing the latest orders passed in those proceedings.

11. By way of an example, we may note, to the extent adjournment was granted to the appellant on 12.03.2025, by a judicial order passed by a two-Member bench of the Tribunal, that order may be found uploaded on the website of the Tribunal

12. However, the issue here is not about the dates when a judicial order may have been passed and uploaded, but the issue is if no notice was required after the subsequent date 06.05.2025, when no order came to be passed by the Tribunal. As noted above, on that date, a two-Member bench of the Tribunal was not constituted. Therefore, no order came to be passed or uploaded- fixing next date in the proceedings.

13. In such circumstances, we find it difficult to accept the submission advanced by learned counsel for the revenue that even in that circumstance, the appellant was enabled to find out the correct status of the proceedings by perusing the daily cause list which is uploaded every Thursday. Though it cannot be denied that such course may have been adopted and thereby information may have been gained by the appellant when the case was to be listed next, at the same time, it also cannot be denied that there was no notice issued by the Tribunal of the next date fixed in the proceedings and there is no enabling Rule or practice that may commend such extreme diligence on part of the appellant.

14. Consequently, neither there was any order displaying the order-sheet of the case- disclosing to the appellant in advance, the next date fixed in the appeal, after the date 06.05.2025, nor any notice was issued for the subsequent date i.e. 15.07.2025.

15. Rule 18(1) and 24 of the Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 (in short, "the Rules") read as below:

> **"Rule 18 - Date and place of hearing to be notified.-** (1)The Tribunal shall notify to the parties the date and place of hearing of the appeal or application.
>
> **Rule 24- Adjournment of appeal.** - The Tribunal may, on such terms as it thinks fit and at any stage of the proceedings, adjourn the hearing of the appeal."

16. Perusal of the above Rules makes it clear that in the first place, the Tribunal was obligated to notify the date and place of hearing of the appeal. To the extent there was no judicial order passed on 06.05.2025, the next/last date 15.07.2025 was not notified to the appellant through judicial order or in the course of hearing in the appeal proceedings. Further, to the extent the Order No.46 of 2025, dated 25.02.2025, was issued by the Deputy Registrar, the date 15.07.2025 could not be notified to the appellant in the manner required vide Public Notice No.3/2019, dated 18.02.2019.

17. Undeniably, since there was no sitting of two-member bench on

06.05.2025, the fact that no hearing took place on that date, cannot be doubted. It also cannot be described that hearing was adjourned, on that date in terms of Rule 24 noticed above. To that extent, the hearing procedure was disrupted occasioned by non-availability of the two-Member bench of the Tribunal. Therefore, it was obligated to issue a fresh notice to the appellant in terms of Rule 18 of the Rules, intimating the next date and place of hearing. That was not done.

18. In view of the above, the order of the Tribunal has been passed without affording the appellant due opportunity of hearing, to which it was otherwise entitled in law.

19. Thus the appeal succeeds and is **allowed**. The question of law is answered in the negative i.e. in favour of the appellant and against the revenue.

20. The order of the Customs Excise and Services Tax Appellate Tribunal, Allahabad in Appeal No.71262 of 2018, dated 13.11.2025 is hereby set aside. The matter is remitted back to the Tribunal for passing a fresh order.

21. We make it clear that we have not considered the manner of service of notice under Rule 18 of the Rules, inasmuch as, it is not the case of the revenue that the notice was served through any mode.

(Swarupama Chaturvedi,J.) **(Saumitra Dayal Singh,J.)**

July 24, 2026

Prachi