Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Excise Appeal No. 11688 of 2014

[Arising out of OIA-VAP-EXCUS-000-APP-497-13-14 dated 12/02/2014 passed by Commissioner of Central Excise-VAPI]

Srinidhi Industries Limited .....**Appellant**
Govt Godown Road,
Amli, Silvassa, U T Of Dadra & Nagar Haveli

VERSUS

C.C.E. & S.T.-Vapi ....**Respondent**
4th Floor...Adharsh Dham Building,
Opp. Town Police Station, Vapi-Daman Road, Vapi
Vapi, Gujarat-396191

APPEARANCE:
Shri R. Subramanya, Advocate for the Appellant
Shri Tara Prakash, Deputy Commissioner (AR) the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. C L MAHAR

FINAL ORDER NO. A/10924/2023

DATE OF HEARING/DECISION:13.04.2023

RAMESH NAIR

This appeal is directed against the order of the Commissioner (Appeals) whereby, he dismissed the appeal for non-compliance of pre-deposit.

02. Shri R. Subramanya, learned counsel appearing on behalf of the appellant submits that they had paid the pre-deposit by way of debiting the cenvat account therefore, the pre-deposit was correctly paid hence, the appeal could not have been dismissed for non-compliance of pre-deposit. He submits that the issue is covered by decision of this tribunal in their own case in appeal nos. E/540/2012 & E/863/2012 vide orders dated 29.04.2015 and 01.09.2021 respectively.

03. Shri Tara Prakash, learned Deputy Commissioner (AR) appearing on behalf of the revenue submits that since the Commissioner (Appeals) has

decided the matter for non-compliance of pre deposit therefore, the matter can be remanded to the Commissioner (Appeals) for deciding on merit.

04. Considering the submission made by learned counsel and perusal of records, we find that the appellant had paid the pre-deposit amount by way of debiting in cenvat account accordingly, the compliance of Section 35F was made correctly. Hence, the Commissioner (Appeals) could not have dismissed the appeal for non-compliance of pre-deposit. Accordingly, we set aside the impugned order and remand the matter to the Commissioner (Appeals) for deciding afresh on merit.

(Dictated and pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(C L MAHAR)
MEMBER (TECHNICAL)

Mehul