

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

REGIONAL BENCH-COURT NO. 3

Service Tax Appeal No. 10322 of 2023- DB

Service Tax Miscellaneous (EH) Application No. 10156 of 2023

(Arising out of OIA- AHM-EXCUS-002-APP-190/2022-23 dated 10/03/2023 passed by Commissioner (Appeals))

Kanubhai Laljibhai Patel

Prop of Savaram Engineers
B-1 Zalavadi Kadva Patidar Society, Bechraj Road
Virmgam, Ahmedabad, Gujarat- 382150

.....Appellant

VERSUS

C.C.E. & S.T.-Ahmedabad-I

C. Ex Bhavan,
Ahmedabad,
Gujarat- 380015

.....Respondent

APPEARANCE:

Ms. Rachana Khandhar, Chartered Accountant for the Appellant
Shri Anand Kumar, Superintendent (AR) for the Respondent

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

Final Order No. A/ 11384 /2023

DATE OF HEARING: 26.06.2023
DATE OF DECISION: 26.06.2023

RAMESH NAIR

Ms. Rachana Khandhar, Learned Chartered Accountant appearing on behalf of the Applicant submits that the Learned Commissioner (Appeals) has rejected the appeal for want of mandatory pre-deposit under Section 35F. She submits that by this time they have deposited pre-deposit, therefore, she requested that the appeal to be disposed of by way of remand to the Commissioner (Appeals) to decide on merit.

2. On the other hand, Shri Anand Kumar, Learned Superintendent (AR) appearing on behalf of the Revenue has no objection if the matter is remanded to the Commissioner (Appeals).

3. Considering the submission made by both sides, early hearing application is allowed. Since the Commissioner (Appeals) has dismissed the appeal for the want of pre-deposit, this appeal can also be disposed of. We find that since the appellant have now made the pre-deposit required under Section 35F of Central Excise Act,1944 , the matter is remanded to the Commissioner (Appeals) to decide the matter on merit.

4. Accordingly, we set aside the impugned order and allow the appeal by way of remand.

(Dictated & Pronounced in the open court)

RAMESH NAIR
MEMBER (JUDICIAL)

C.L. MAHAR
MEMBER (TECHNICAL)

geeta