

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD**

REGIONAL BENCH – COURT NO. 03

CUSTOMS Appeal No. 13955 of 2014-DB

[Arising out of Order-in-Original/Appeal No AHM-CUSTM-000-APP-247-253-14-15 dated 22.08.2014 passed by Commissioner of CUSTOMS-AHMEDABAD]

Shoibbhai Belalbhai Kapadia

...Appellant

137, Nishad Society, Nr, Anwar Msjid,
Rander Road, Adajan,
Surat,
Gujarat

VERSUS

C.C.-Ahmedabad

...Respondent

Custom House,
Near All India Radio Navrangpura,
Ahmedabad,
Gujarat

APPEARANCE:

Shri Shriraj D.Shah, Advocate for the Appellant
Shri. Himanshu P Shrimali, Superintendent (Authorized Representative) for the Respondent

**CORAM: HON'BLE MEMBER (TECHNICAL), RAJU
HON'BLE MEMBER (JUDICIAL) ,SOMESH ARORA**

FINAL ORDER NO.A / 11336 /2023

DATE OF HEARING:15.06.2023

DATE OF DECISION: 15.06.2023

RAJU

This appeal has been filed by M/s. Shoibbhai Belalbhai Kapadia against dismissal of appeal by Commissioner (Appeals) on the ground of non-payment of pre-deposit.

2. Learned Counsel appearing for the appellant pointed out that a penalty is of Rs. 5 Lakhs each under Section 114 and 114AA was imposed against the appellant. The appellant approach Commissioner (Appeals) who directed the

appellant to pay pre-deposit of Rs. 1 Lakh. The appellant sought revision and waiver of this amount of pre-deposit directed by the Commissioner (Appeals). However, the said prayer was rejected and since appellant failed to deposit this amount the Commissioner (appeals) is finally dismissed for non-compliance of stay order. The appellant filed before the Commissioner (Appeals). The appellant has now paid the pre-deposit of Rs. 1 Lakh and the appellant is seeking remand the matter back to the Commissioner (Appeals) for decision on merit.

3. Learned AR relied on the impugned order.

4. From the facts of the case, it is apparent that the appellant has failed to pay the pre-deposit before the Commissioner (Appeals) and consequently, the appeal was dismissed. The appellant has paid a pre-deposit of Rs. 1 Lakh against total penalty of Rs. 10 Lakh imposed in the OIO.

5. In these circumstances, in the interest of justice, we set aside the impugned order and remand the matter back to the Commissioner to decide the appeal on merit.

(Dictated & Pronounced in the open Court)

(RAJU)
MEMBER (TECHNICAL)

SOMESH ARORA
MEMBER (JUDICIAL)