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

REGIONAL BENCH - COURT NO. 3

EXCISE Appeal No. 13701 of 2014-DB

[Arising out of Order-in-Original/Appeal No VAD-EXCUS-002-APP-371-2014-15 dated 28.08.2014 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-II]

Gujarat Fluorochemicals Limited .... **Appellant**
Plot No. 03, Gidc, Ranoli, VADODARA
GUJARAT

VERSUS

Commissioner of C.E. & ST, Vadodara-ii .... **Respondent**
1st Floor, Room No. 101, New Central Excise Building,
Vadodara, Gujarat-390027

APPEARANCE :

Shri Dhaval K. Shah, Advocate for the Appellant
Shri Anoop Kumar Mudvel, Superintendent (AR) for the Respondent

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

DATE OF HEARING/ DECISION: 07.08.2023

FINAL ORDER NO. 11731/2023

RAMESH NAIR :

Shri Dhaval K. Shah, learned Counsel appearing on behalf of the appellant submits that Commissioner (Appeals) has dismissed the appeal for non-compliance of pre-deposit despite making submissions before him that the Hon'ble Tribunal has granted unconditional stay in the appellant's own case. It is his submission that now the appellant have approached this Tribunal. This Tribunal has granted unconditional stay therefore, therefore the matter can go back to Commissioner (Appeals) for deciding the appeal on merit.

2. Shri Anoop Kumar Mudvel, learned Superintendent (AR) appearing on behalf of the appellant reiterates the findings of the impugned order.

3. On careful consideration of the submissions made by both the sides and perusal of record, we find force in the arguments of learned Counsel that this Tribunal has granted unconditional stay therefore the learned Commissioner (Appeals) should have disposed of the appeal on merits itself. We are of the view that considering that the issue involved in the present case is prima-facie settled in the Hon'ble Supreme Court decision in the case of *Baroda Electric Meters Limited vs. Collector of Central Excise – 1997 (94) ELT 13 (SC)*, the appellant should not be insisted for making pre-deposit and the appeal be decided on merits. Accordingly, we set-aside the impugned order and remand the matter to Commissioner (Appeals) for passing a fresh order on merits.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

(C L Mahar)
Member (Technical)

KL