

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

REGIONAL BENCH – COURT NO. 01

CUSTOM Appeal No. 10308 of 2018

[Arising Out Of OIA-KDL-CUSTM-000-APP-037-17-18 Dated- 03/11/2017 Passed By Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD]

J M D Oils Pvt Ltd

5/24, Ramesh Nagar New Delhi,
Delhi

.....Appellant

VERSUS

C.C.-Kandla

Custom House, Near Balaji Temple,
Kandla, Gujarat

.....Respondent

APPEARANCE:

Shri. Piyush Kumar, Advocate for the Appellant

Shri. Rajesh Nathan, Assistant Commissioner (AR) for the Appellant

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

FINAL ORDER NO. A / 11734 / 2023

DATE OF HEARING: 17.08.2023

DATE OF DECISION: 17.08.2023

RAJU

This appeal has been filed by J M D Oils Pvt Ltd against order of Commissioner (Appeals) dismissing their appeal on the ground of limitation and for failure to make pre-deposit.

2. Learned Counsel pointed out that they had filed the appeal in time although before a wrong authority. The appellant had by mistakes filed appeal to the office of Commissioner, Kandla instead of Commissioner of

Customs (Appeals) Ahmedabad. He further pointed out that they have not paid the pre-deposit at the material time. Consequently, they seek remand to enable Commissioner (Appeals) to pass order on merit.

3. Learned AR relies on the impugned order.

4. We have considered the rival submission. We find that the appellant has by mistakes sent the appeal papers to the office of the Commissioner, Kandla instead of Commissioner (Appeals) Ahmedabad. In identical case the Tribunal in the case of M/s. Maruti Udyog Ltd-2009 (244) ELT 66 (Tri. Ahd.) has held that in such cases benefit should be allowed to the appellant. Moreover, it is pointed out that the appellant that they have made the pre-deposit. In these circumstances, we set aside the impugned order and remand the matter to the Commissioner (Appeals) to pass order on merits.

5. The appeal is allowed by the way of remand.

(Dictated and pronounced in the open Court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi