

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

REGIONAL BENCH- COURT NO. 3

Service Tax Miscellaneous Application (ROA) No. 11588 OF 2024

(filed by applicant)

in

Service Tax Appeal No. 11194 of 2015-DB

(Arising out of OIA-VAD-EXCUS-003-APP-03-15-16 dated 16/04/2015 passed by Commissioner of Central Excise, Customs and Service Tax-SILVASSA)

Tainwala Personal Care Products P Ltd

.....Appellant

Plot No. 77/85,
Govt Industrial Estate, Khadoli,
SILVASSA, U T OF DADRA & NAGAR HAVELI

VERSUS

COMMISSIONER OF CGST & CENTRAL EXCISE

- CGST & Central Excise Daman

.....Respondent

Customs and Service Tax, Daman,
5th Floor, GST Bhavan, RCP Compound,
Vapi, Valsad-396191, Gujarat

APPEARANCE:

Shri Rahul Gajera, Advocate appeared for the Appellant

Shri Sanjay Kumar, Superintendent (AR) appeared for the Respondent

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

Final Order No. 13141/2024

DATE OF HEARING/ DECISION: 04.12.2024

RAMESH NAIR

Shri Rahul Gajera, Learned Counsel, appearing on behalf of the applicant submits that due to some communication problem, notice could not be seen by the appellant, therefore, none appeared on behalf of the appellant. Now, Shri Rahul Gajera has been appointed after the appeal was dismissed. He also submits that the issue lies in very narrow compass that the Commissioner (Appeals) has dismissed the appeal for non-payment of the pre-deposit. Now the appellant have made pre-deposit while filing the appeal before this Tribunal, therefore, the appeal itself can be disposed of.

2. Considering the submission made by Learned Counsel appeal is restored in its original number, ROA application is allowed. Since, the matter in any case has to go back to the Commissioner (Appeals), the appeal can be disposed of. The Learned Commissioner (Appeals) has dismissed the appeal for non-compliance of the pre-deposit as required under Section 35 F of Central Excise Act, 1944. Now the appellant has paid 10% while filing the appeal before this Tribunal. Therefore, the compliance required for the appeal before the Commissioner (Appeals) stands made. Accordingly, the impugned

order is set aside. The appeal is allowed by way of remand to the Commissioner (Appeals) for deciding on merit.

(Dictated and pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(C L MAHAR)
MEMBER (TECHNICAL)

Bharvi