

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD**

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70726 of 2019

(Arising out of Order-in-Appeal No.401-ST-Appeal-Lko-2019, dated - 19/07/2019 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Lucknow)

M/s Awadh Construction

.....Appellant

(555, KHA/503, Bhola Kheda, Alambagh
Lucknow, UP 226010)

VERSUS

Commissioner, CGST & Central Excise,

....Respondent

(7-A...Ashok Marg,
Lucknow, U.P.)

APPEARANCE:

Absent for the Appellant

Shri Santosh Kumar, Authorized Representative for the Respondent

**CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)**

FINAL ORDER NO.-70509/2024

DATE OF HEARING : 31.07.2024
DATE OF DECISION : 31.07.2024

P. K. CHOUDHARY:

The present appeal has been filed by the Appellant assailing the Order-In-Appeal dated 19.07.2019 passed by the learned Commissioner (Appeals) Customs, GST & Central Excise, Lucknow.

2. We find that the learned Commissioner (Appeals) has not decided the appeal on merit but has dismissed the same on the ground that the evidence of pre-deposit as required under Section 35F of the Central Excise Act, 1944 has not been placed before him. Accordingly, he dismissed the appeal.

3. We find that vide the Order-In-Original dated 20.12.2018 demand of Rs.88,68,478/- has been confirmed

against the Appellant-Assessee and accordingly they are required to deposit 7.5% + 2.5% as mandatory pre-deposit under Section 35F for filing appeal before the Tribunal. The Appeal was admitted noting the compliance with Section 35F of the Central Excise Act, 1944.

4. In view of the facts as stated above we find it appropriate to remand the matter to the learned Commissioner (Appeals) to decide the appeal on merits without further visiting the aspect of pre-deposit. The appeal filed by the Appellant is allowed by way of remand to the learned Commissioner (Appeals).

(Dictated and pronounced in open court)

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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