IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

1-4) ST/70010/2018-CU[DB], ST/70931/2018-CU[DB], ST/70932/2018-CU[DB], ST/70137/2018-CU[DB]

1-3) (Arising out of Order-in-Appeal No.100-107/ST/Alld/2017 dated 16.09.2017 passed by Commissioner(Appeals)CGST & Central Excise, Allahabad.)

4) (Arising out of Order-in-Appeal No.252/ST/Alld/2017 dated 16.09.2017 passed by Commissioner(Appeals)CGST & Central Excise, Allahabad.)

1) M/s. Devi Enterprises
2,3) Nagar Nigam Allahabad
4) Shri Sanjay Kumar Yadav

…APPELLANT(S)

VERSUS

Commissioner of Customs, Central Excise & Service Tax, Allahabad
RESPONDENT (S)

APPEARANCE

Shri Om Prakash Shukla (Advocate) for Appellant No.1, Request for Adjournment for Appellant No.2 & 3, Ms.Stuti Saggi (Advocate) for Appelalnt No.4.

Shri Rajeev Ranjan, Addl.Commr.(A.R.) & Shri Sandeep Kumar Singh (Dy.Commr.) (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 06.03.2019

FINAL ORDER NO.70470-70473/2019

Per Mrs.Archana Wadhwa :

After hearing both sides we find that the Commissioner(Appeals) dismissed all the four appeals for non-compliance with the amended provisions of section 35F of the Central Excise Act, 1944, which require the appellant to deposit 7.5% of the demand confirmed against the assessee.

2. Apart from the fact that the period involved was when the amended provisions of section 35F were recently issued, we also note that for the purpose of filing appeal before Tribunal, the appellant has deposited 10% of confirmed demand, which will include 7.5% required to be deposited before Commissioner(Appeals). As such we are of the view that the matter needs to be remanded to Commissioner(Appeals) for decision on merits. We order accordingly.

(Dictated and pronounced in the open Court.)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

SD/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

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