CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.70205 of 2023

(Arising out of Order-in-Appeal No.MRT/EXCUS/000/APPL-MRT/103/2022-23 dated 30.12.2022 passed by Commissioner (Appeals) Central Goods & Services Tax, Meerut)

M/s Garrison Securitas (Regd), **.....Appellant**
(Basement, Kamla Market Brijesh Nagar,
Paper Mill Road, Saharanpur-247001)

VERSUS

Commissioner of Central Excise &
CGST, Meerut **....Respondent**
(Mangal Pandey Nagar, Meerut, U.P.)

APPEARANCE:

Shri Aalok Arora, Advocate for the Appellant
Shri A. K. Choudhary, Authorized Representative for the Respondent

CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO.- 70105/2025

DATE OF HEARING : 04.03.2025
DATE OF DECISION : 04.03.2025

The present appeal has been filed by the Appellant assailing the Order-in-Appeal No.MRT/EXCUS/000/APPL-MRT/103/2022-23 dated 30.12.2022 passed by Commissioner (Appeals) Central Goods & Services Tax, Meerut whereby the learned Commissioner (Appeals) has not decided the appeal before him on merits but rejected the same on the ground of non-compliance of mandatory pre-deposit in terms of Section 35F of the Central Excise Act, 1994, as made applicable for service tax matters by Section 83 of the Finance Act, 1994.

2. Heard both the sides and perused the appeal records.

3. I find from the records that vide Order-in-Original dated 31.03.2022, demand of Rs.30,12,870/- has been confirmed and the entire amount has been deposited and appropriated against

the said demand of service tax. Even an amount of Rs.7,35,398/- demanded on account of interest under Section 75 of the Finance Act, 1994, has been paid by the Appellant assessee and appropriated in the Order-in-Original. Since the Appellant has already paid the entire amount of service tax as demanded in the Order-in-Original and which has already been appropriated, there is no occasion for the Appellant assessee to deposit any amount towards mandatory pre-deposit. This aspect has been overlooked by the learned Commissioner (Appeals) resulting in rejection of the appeal before him.

4. In view of the facts as stated above and under the circumstances of the case, I 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.

5. Needless to mention that all issues are kept open and the Appellant should cooperate in the hearing of the appeal before the learned Commissioner (Appeals) and should not seek unnecessary adjournment.

6. 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)

LKS