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

REGIONAL BENCH - COURT NO.I

(E-Hearing)

**Service Tax Appeal No.70383 of 2024**

(Arising out of Order-In-Appeal No. NOI-EXCUS-002-APP-357-23-24, dated - 08/11/2023 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Noida)

**M/s Musheer Ahmad** **.....Appellant**
(12/2796, Anand Nagar
Ambala Road, Saharnpur
Saharanpur, Uttar Pradesh 247001)

*VERSUS*

**Commissioner, 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.-70324/2025**

DATE OF HEARING : 22.05.2025
DATE OF DECISION : 22.05.2025

**P. K. CHOUDHARY:**

Heard both the sides and perused the appeal records.

2. I find that the learned Commissioner (Appeals) has not decided the matter on merits but has rejected the same for want of mandatory pre-deposit. I find that vide Order-In-original dated 30.06.2022, the learned Adjudicating Authority had confirmed the demand of Service Tax amounting to Rs.1,59,760/-. The Appellant was in appeal against this order

before the learned Commissioner (Appeals). 7.5% of this amount comes to Rs.12,000/- and the same was deposited by the Assessee vide DRC-03 Challan CIN SBIN22100900379920 dated 19.10.2022. However, the learned Commissioner (Appeals) observed that "As such the even the DRC-03, appropriating and debiting the said amount against the requirement of pre-deposit was never made by the Appellant" and accordingly, the payment made by the Appellant-Assessee towards mandatory pre-deposit was not considered. Being aggrieved the Appellant has filed the present appeal before the Tribunal and again an amount of Rs.16,000/- being 10% of the demand has been deposited on 30.01.2024 vide CTIN No.2401610767.

3. Since the First Appellate Authority has not decided the appeal on merits, 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 mandatory pre-deposit. The Appellant-Assessee is directed to cooperate in the proceedings and not to take unnecessary adjournments. All issues are kept open.

4. Appeal is allowed by way of remand to the learned Commissioner (Appeals)

(Dictated and pronounced in open court)

**Sd/-**
**(P. K. CHOUDHARY)**
**MEMBER (JUDICIAL)**

*Nihal*