CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. II

Service Tax Appeal No.70743 of 2024

(Arising out of Order-in-Appeal No.MRT-EXCUS-000-APP-119-22-23 dated 31/01/2023 passed by Commissioner (Appeals) Customs, Central Excise & CGST, Meerut)

M/s Intercity Courier Services, **....Appellant**

(New Cloth Market, Station Road,
Opp. Saroj Cinema Moradabad-244001)

VERSUS

Commissioner of Central Excise &

CGST, Meerut-I **....Respondent**

(Commissionerate, Meerut)

APPEARANCE:

Shri Amit Kumar Yadav, holding brief for Counsel on record, for the Appellant
Shri Santosh Kumar, Authorised Representative for the Respondent

CORAM: **HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)**

FINAL ORDER NO.70476/2025

DATE OF HEARING : 11 July, 2025
DATE OF DECISION : 11 July, 2025

SANJIV SRIVASTAVA:

This appeal is directed against Order-in-Appeal No.MRT-EXCUS-000-APP-119-22-23 dated 31/01/2023 passed by Commissioner (Appeals) Customs, Central Excise & CGST, Meerut. By the impugned order Commissioner (Appeals) has dismissed the appeal of the appellant by observing as follows:-

"In view of the above instructions the payment made for mandatory pre-deposit under Section 35F of the Central Excise Act, 1944 through DRC-03 under CGST regime cannot be accepted. From 1st July, 2019 onwards as per C.B.I. & C. Circular No.1070/3/2019-CX, dated 24-6-2019,

a new revised procedure has to be followed by the taxpayers for making CE & ST payments. First, taxpayer has to create a Challan on the integrated CBIC portal. Post creation of the Challan, and on clicking Make Payment, taxpayer will be directed to CBIC-ICEGATE portal for initiating payment or the same can be deposited in Authorized Bank. Therefore, the payment of pre-deposit is to be made by creating a challan on integrated CBIC portal. But, the appellant failed to comply with the provisions of the section 35F Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994 in respect of mandatory pre-deposit through challan. Without the pre-deposit the appeal filed by the appellant cannot be entertained.

5. In the light of above discussion, I dismiss the appeal of the appellant for not depositing pre-deposit amount and uphold the impugned order passed by the adjudicating authority."

2.1 From the above impugned order it is evident that Commissioner (Appeals) has dismissed the appeal of the appellant only for want of mandatory pre-deposit.

3.1 I have heard the Shri Amit Kumar Yadav, Advocate appearing for the appellant and Shri Santosh Kumar, Authorized Representative appearing for the revenue.

3.2 Arguing for the revenue learned Authorized Representative submits that the appellant have now made the mandatory pre-deposit in compliance of Section 35F of the Act.

4.1 I have considered the impugned orders along with the submissions made in appeal and during the course of argument.

4.2 Taking the note of the above fact that the impugned order has not passed on merits of the case, the matter needs to be remanded for reconsideration by Commissioner (Appeals) as the appellant has deposited the entire amount required to be deposited as mandatory pre-deposit for consideration of the appeal by this Tribunal i.e. 10% of the disputed amount as prescribed by Section 35F of the Central Excise Act, 1944.

4.3 Since the impugned order do not considers the appeal filed by the appellant on merits, no decision has been rendered on merits by Commissioner (Appeals). Matter needs to be remanded back to the Commissioner (Appeals) for decision on merits.

4.4 I want to make it clear that appellant shall not withdraw any part of the pre-deposited amount or make a claim for any refund of this amount till the disposal of the appeal by the Commissioner (Appeal) in remand proceedings.

5.1 Appeal is allowed and matter is remanded back to Commissioner (Appeal) for denovo consideration.

5.2 Since the appeal has been quite old, Commissioner (Appeal) is directed to decide the appeal on merits of the case by following the principles of natural justice within three months from the date of receipt of this order.

(Dictated and pronounced in open court)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

akp