IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. ST/70925/2018-ST[SM]

(Arising out of Order-in-Appeal No. 196/ST/Alld/2018 dated 10/04/2018 passed by Commissioner of CGST & Central Excise (Appeals), Allahabad)

M/s Omica Associates **Appellant**

Vs.

Commissioner of Central Excise & GST, Allahabad **Respondent**

<u>Appearance:</u>

Shri Rakesh Kumar, Advocate, for Appellant
Shri Gyanendra Kumar Tripathi, Deputy Commissioner (AR), for Respondent

<u>CORAM:</u>

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing & Date of Decision : 14/03/2019

FINAL ORDER NO. **70544/2019**

Per: Archana Wadhwa

After hearing both the sides, I find that Commissioner (Appeals) has rejected the appeal on the ground of non-compliance with the provisions of Section 35F of the Central Excise Act, 1944.

2. The contention of the ld. Advocate appearing for the appellant is that the said 7.5% of the confirmed demand was deposited by them and Challans were attached along with the appeal filed before Commissioner (Appeals). It is seen that the same escaped the attention of the Appellate Authority. In any

case, I note that the appellant has now deposited 10% for the purpose of filing of the appeal before Tribunal.

3. In view of the above, I set aside the impugned order and remand the matter to Commissioner (Appeals) for verification of the assessee's stand of deposit of duties and to decide the matter on merits, in case, the provisions of Section 35F of the Central Excise Act, 1944 stands satisfied.

4. Appeal is thus allowed by way of remand.

(Dictated in Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Ansari