CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.II

Service Tax Appeal No.70677 of 2025

(Arising out of Order-in-Appeal No.NOI-EXCUS-002-APP-592-23-24 dated 11/03/2024 passed by Commissioner (Appeals) Central Goods & Services Tax, Noida)

M/s Suman Sharma, **.....Appellant**
(762, Civil Lines, Bulandshahr-203001)

VERSUS

Commissioner of Central Excise &

Service Tax, Noida **....Respondent**

(Commissionerate, Noida)

APPEARANCE:

Request for adjournment, for the Appellant
Shri Manish Raj, Authorised Representative for the Respondent

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

FINAL ORDER NO.70801/2025

DATE OF HEARING : 12 November, 2025
DATE OF DECISION : 12 November, 2025

SANJIV SRIVASTAVA:

This appeal is directed against Order-in-Appeal No.NOI-EXCUS-002-APP-592-23-24 dated 11/03/2024 passed by Commissioner (Appeals) Central Goods & Services Tax, Noida. By the impugned order following has been held:-

> *"13. Accordingly, without going into merits of the case, I hereby reject the present appeals NO. 203/ST/NOIDA/APPL/GBN/2023-24 dated 12.10.2023 filed by M/s Suman Sharma, H.No. 762, Civil Lines, District Bulandshahar-201301 (U.P.) due to the failure of the appellants to make pre-deposit in terms of Section 35F of the Central Excise Act, 1994, as made applicable to Service Tax read with Section 83 of the Finance Act, 1994."*

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 Appellant through a written request has prayed for adjournment in the matter. I have heard Shri Manish Raj, Authorized Representative appearing for the revenue.

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.

4.5 In view of the above, impugned order is set aside.

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

5.2 Commissioner (Appeal) is directed to decide the appeal on merits of the case by following the principles of natural justice within a period of three months from the date of receipt of this order.

(Dictated and pronounced in open court)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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