CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>ALLAHABAD</u>

REGIONAL BENCH - COURT NO.II

Service Tax Appeal No.70083 of 2026

(Arising out of Order-in-Appeal No.136/ST/Alld/2021 dated 08/04/2021 passed by Commissioner (Appeals) Customs, Central Excise & Service Tax, Allahabad)

M/s Efficient Hotels India Pvt. Ltd., ...Appellant
(M F C, Civil Line Side, Railway Station Compound, Civil Lines, Allahabad-211001)

VERSUS

Commissioner of Central Excise &

CGST, Allahabad ....Respondent

(38 MG Marg, Civil Lines, Allahabad-211001)

<u>APPEARANCE:</u>

Adjournment request for the Appellant
Shri A.K. Choudhary, Authorised Representative for the Respondent

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

FINAL ORDER NO.70094/2026

DATE OF HEARING : 02 April, 2026
DATE OF DECISION : 02 April, 2026

<u>SANJIV SRIVASTAVA:</u>

This appeal is directed against Order-in-Appeal No.136/ST/Alld/2021 dated 08/04/2021 passed by Commissioner (Appeals) Customs, Central Excise & Service Tax, Allahabad. By the impugned order following has been held:-

> *"4.3 Since the instant appeal has been filed on 28.02.2020, after 06.08.2014, Le, the date from which the amended Section 35F of the Act came into effect, without complying with the statutory requirement of pre deposit, when the Commissioner (Appeals) had no jurisdiction to entertain or admit the appeals, I, therefore, find that this appeal is not maintainable in terms of Section 35F of the*

Act and in the light of the aforementioned judicial pronouncements.

5. In view of the above, I hold that the present appeal filed by the appellant is not maintainable and as such, the same is rejected."

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 filed a request for adjournment in the matter. As the issue involved in the present appeal is in a very narrow compass, the matter is taken into consideration on the basis of records and after hearing the learned Authorized Representative Shri A.K. Choudhary appearing for the Respondent-Revenue.

3.2 Arguing for the revenue learned Authorized Representative agrees that the appellant has made the mandatory pre-deposit of 10% of the disputed amount for consideration of this appeal by the tribunal (Second Appellate Authority).

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

4.2 I observe that the appellant has made 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. The amount so deposited in this appeal towards pre-deposit is more than the amount that was to be deposited for consideration of the appeal by First Appellate Authority i.e. 7.5 % of the disputed amount.

4.3 Since the impugned order do not considers the appeal filed by the appellant on merits, 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 (Appeals) in remand proceedings.

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

5.2 Since the appeal is 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