CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Early Hearing Application No.70250 of 2025
(on behalf of the Appellant)
In
Service Tax Appeal No.70378 of 2023

(Arising out of Order-in-Appeal No. NOI-EXCUS-001-APP-61-2023-24, dated - 09/05/2023 passed by Commissioner (Appeals) CGST & Central Excise, Noida)

M/s Sumit Construction Co. **.....Appellant**
Block-A, A-7, Sector-52, Noida,
Gautam Buddha Nagar, Uttar Pradesh 201301

VERSUS

Commissioner, CGST, Noida **....Respondent**
GST Bhawan, IRCON Building, Plot No.-C-232,
A/2-A/3, Sector-48, Gautam Budh Nagar, Noida-201301

APPEARANCE:

Shri Avadhesh Kumar, Advocate for the Appellant
Shri Manish Raj, Authorised Representative for the Respondent

CORAM: **HON'BLE MR. P. K. CHOUDHARY, MEMBER (JUDICIAL)**
HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)

MISCELLANEOUS ORDER NO.70240/2026
FINAL ORDER NO.70233/2026

DATE OF HEARING : 07.07.2026
DATE OF DECISION : 07.07.2026

P.K. CHOUDHARY:

The Miscellaneous Application (Early Hearing) has been filed by the Appellant/Assessee praying for out of turn hearing of the appeal.

2. Considering the submissions made by the learned Counsel for the Appellant, the prayer for Early Hearing of the appeal is accepted. Accordingly, Early Hearing Application filed by the

Appellant is allowed and with the consent of both the sides, appeal itself is taken up for hearing today.

3. The present appeal has been filed by the Appellant assailing the Order-In-Appeal passed by the learned Commissioner (Appeals) CGST, Noida whereby the appeal has not been decided on merits but has been rejected for want of compliance of mandatory pre-deposit.

4. The facts of the case in brief are that the Order-In-Original dated 28.12.2022 was received by the Appellant on 31.12.2022 and the appeal was filed on 28.02.2023 i.e. well within the statutory period of 60 days. However, the learned Commissioner (Appeals) has observed that the amount of pre-deposit was made only on 10.04.2023 which in his opinion was beyond the statutory period and hence he rejected the appeal filed before him.

5. Heard both the sides and perused the appeal records.

6. We find that the Order-In-Original dated 28.12.2022 was received by the Appellant on 31.12.2022 and the appeal was filed on 28.02.2023 i.e. well within the statutory period of 60 days. The mandatory pre-deposit was made on 10.04.2023 which cannot be termed as deposited beyond the statutory period. At best that can be considered as a defect at the time of filing of the appeal before the First Appellate Authority and since that was deposited subsequent to the filing of the appeal, the defects stands cured/complied with.

7. In view of the above facts, we find it appropriate to remand the matter to learned Commissioner (Appeals) to decide the appeal on merits without further visiting the aspects of

limitation/pre-deposit. Appeal filed by the Appellant is allowed by way of remand.

(Dictated and pronounced in open court)

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

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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