

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

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REGIONAL BENCH – COURT NO. 1

**Service Tax Appeal No. 60384 Of 2023**

[Arising out of Order-in-Appeal No.LUD-EXCUS-001-APP-347-350-2022 dated 30.09.2022 passed by the Commissioner (Appeals), CGST Commissionerate, Ludhiana]

**M/s Fastway Space Satellite  
Private Limited**

Lajjya Tower, Sham Nagar  
(Now 5<sup>th</sup> Floor, Grand Walk,  
H-Block, BRS Nagar,  
Ferozepur Road), Ludhiana

**: Appellant (s)**

Vs

**The Commissioner (Appeals)  
Central Goods & Service Tax Appeals,  
Commissionerate, Ludhiana**

GST Bhawan, F-Block, Rishi Nagar,  
Ludhiana-141001

**: Respondent (s)**

**WITH**

**(i) Service Tax Appeal No. 60385 of 2023 [M/s Fastway  
Shine Star Network Private Limited]**

**(ii) Service Tax Appeal No. 60386 of 2023 [M/s Fastway  
Surya Network Private Limited]**

**(iii) Service Tax Appeal No. 60387 of 2023 [M/s Fastway  
Citizen Cable Network Private Limited]**

[All Arising out of common Order-in-Appeal No.LUD-EXCUS-001-APP-347-350-2022 dated 30.09.2022 passed by the Commissioner (Appeals), CGST Commissionerate, Ludhiana]

**APPEARANCE:**

Shri Veer Singh, Advocate for the Appellants

Shri Nikhil Kumar Singh, Authorised Representative for the Respondent

**CORAM :**

**HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)**

**HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER Nos.60203-60206/2023**

Date of Hearing: 19.07.2023

Date of Decision: 19.07.2023

**Per : S. S. GARG**

The present appeals are directed against the impugned order dated 30.09.2022 passed by the Commissioner (Appeals) whereby the Commissioner (Appeals) has dismissed all the four appeals.

2. Briefly, the facts of the present case are that the appellants are engaged in providing taxable services of Cable Operator through cable network to various consumers/customers/users as Multi System Operator (hereinafter referred to as MSO). The appellants had been availing CENVAT Credit on input services and were engaged in providing services to various cable operators. They were receiving signals from various TV channels and transmitting the same to the cable operators who were further transmitting the signals to the ultimate consumers. During audit, it was found that the appellants availed CENVAT credit on the strength of invoices which were printouts of invoices received in digital form. None of these invoices were signed by the person providing the respective services. Some of the invoices were having address other than that of the appellant; some invoices carried only the name of the receiver and not the address of the service receiver etc. It was alleged that the appellants had wilfully suppressed the material facts from the knowledge of the Department with intent to avail inadmissible CENVAT credit. The adjudicating authority confirmed the demand in toto and ordered recovery of the same along with interest and imposed penalty under various Sections of the Act. Aggrieved by the Order-in-Original, the appellants filed appeals before the Commissioner and the Commissioner dismissed the appeals on the ground that the appellant

has failed to comply with the condition of mandatory pre-deposit of 7.5% of the duty for filing the appeal. Hence, the present appeal.

3. Heard both sides and perused the records of the case.

4. Learned Counsel appearing for the appellants submitted that the order passed by the Commissioner (Appeals) is not sustainable. He further submitted that the Commissioner (Appeals) has not adjudicated the matter on merit and has only dismissed on account of not depositing the mandatory pre-deposit. He further submitted that since the appellant has complied with the condition of mandatory pre-deposit of 7.5% of the duty under section 35F of the Central Excise Act which is not disputed by the Department, he prayed that the matter may be remanded to the learned Commissioner to decide the same on merits after giving proper opportunity of hearing to the appellants.

5. On the other hand, learned Authorized Representative for the Department reiterates the findings of the impugned order.

6. After considering the submissions of both the parties and perusal of material on record, we find that the learned Commissioner (Appeals) has not decided the appeals on merits and simply dismissed the appeals on the ground that the appellant has failed to comply with the condition of mandatory pre-deposit of 7.5% of the duty under Section 35f of the Central Excise Act. Since the appellant has complied with the requirement of mandatory pre-deposit, we think it is appropriate to remand the matter to the learned Commissioner (Appeals) with a direction to decide these appeals on merits after

providing proper opportunity of hearing to the appellants. Accordingly, all the four appeals are allowed by way of remand.

*(Operative part of the order pronounced in the open Court)*

**(S. S. GARG)**  
MEMBER (JUDICIAL)

**(P. ANJANI KUMAR)**  
MEMBER (TECHNICAL)

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