CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 60229 of 2024

[Arising out of Order-in-Appeal No. APP/PKL/COMMR/151/2023-24 dated 12.02.2024 passed by the Commissioner (Appeals), CGST, Panchkula]

Chander Kanta **......Appellant**
350-B Block, Chopra Garden,
Yamuna Nagar,
Haryana 135001

VERSUS

Commissioner of Central Goods & Service Tax, Panchkula **......Respondent**
GST Bhawan, Sector 25,
Panchkula,
Haryana 134116

WITH

Service Tax Appeal No. 60230 of 2024

[Arising out of Order-in-Appeal No. APP/PKL/COMMR/153/2023-24 dated 12.02.2024 passed by the Commissioner (Appeals), CGST, Panchkula]

Bhagwan Dutt **......Appellant**
350-B Block, Chopra Garden,
Yamuna Nagar,
Haryana 135001

VERSUS

Commissioner of Central Goods & Service Tax, Panchkula **......Respondent**
GST Bhawan, Sector 25,
Panchkula,
Haryana 134116

APPEARANCE:

Present for the Appellant: Sh. Naveen Bindal & Sh. Bharat Jain, Advocates

Present for the Respondent: Sh. Aniram Meena & Sh. Yashpal Singh, Authorized Representatives

<u>CORAM:</u>

HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60408-60409/2024

DATE OF HEARING: 08.07.2024
DATE OF DECISION: 08.07.2024

PER : S. S. GARG

These two appeals filed by the appellants are directed against the impugned orders dated 12.02.2024 passed by the Commissioner (Appeals), whereby the learned Commissioner (Appeals) has dismissed the appeals filed by the appellants as non-maintainable in the absence of fulfilment of condition of pre-deposit as per Section 35F of the Central Excise Act, 1944 as made applicable to service tax matters by virtue of Section 83 of the Finance Act, 1994. Since the issue in both the appeals is identical, therefore, both the appeals are taken up together for discussion and disposal.

2. Heard both sides and perused the records.

3. The learned Counsel for the appellants submits that the Commissioner (Appeals) has rejected their appeals being not maintainable on the ground that the appellants have not paid the required mandatory pre-deposit under Section 35F of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994. He further submits that the appellants have now deposited Rs.9,00,000/- i.e. 10% as pre-deposit required under Section 35F of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994.

Further, he prays that the matter may be remanded back to the Commissioner (Appeals).

4. Since the appellants have complied with the mandatory condition of pre-deposit as prescribed under Section 35F of the Central Excise Act, 1944 as made applicable to service tax matters by virtue of Section 83 of the Finance Act, 1994 and have deposited 10% of the disputed duty demanded by the Revenue, therefore, in our considered opinion, these appeals need to be remanded back to the learned Commissioner (Appeals) to decide the same on merits. Hence, we set aside the impugned orders and remand the cases to the learned Commissioner (Appeals) with the direction to decide the appeals after giving reasonable opportunity to the appellants and thereafter, pass the reasoned order within the period of two months from date of receipt of the certified copy of this order.

5. In the result, the 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)

RA_Saifi