CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60741 of 2023

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-134-135 dated 21.02.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

M/s S S Exports **......Appellant**
11, Rambagh, Opp. Gaushala,
Near Transport Nagar, Jalandhar,
Punjab-144012

VERSUS

Commissioner of CGST & **......Respondent**
Central Excise, Jalandhar
CGST Commissionerate, Central Revenue
Building, Jalandhar, Punjab-144001

APPEARANCE:

Shri Poojan Malhotra, Advocate for the Appellant

Shri Narinder Singh, Authorized Representative for the Respondent

CORAM: HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO.60097/2025

DATE OF HEARING: 22.01.2025
DATE OF DECISION: 22.01.2025

M/s S S Exports, the appellants, have been issued a Show Cause Notice dated 24.06.2020 along with a co-noticee i.e. M/s Jolly Industries; the Show Cause Notice was issued to M/s Jolly Industries seeking to deny the rebate claimed by them on the exports claimed by them for the reason of mis-declaration of the export goods as it was evidenced by the absence of manufacturing facility and electricity connection required to produce the goods which were claimed to have been exported. The appellants were also asked to show cause as to why the penalty should not be imposed on them for fraudulently issuing invoices showing supply to M/s Jolly Industries without commensurate supply of goods; the Show Cause Notice was adjudicated vide Order-in-Original dated 23.11.2020 vide which the rebate claim sanctioned to the M/s Jolly Industries was ordered to be recovered and penalties were imposed on both M/s Jolly Industries and the appellants. Learned Commissioner (Appeals) vide Order-in-Appeal dated 21.02.2023 has allowed the appeal of M/s Jolly Industries and as far as the appellant is concerned, he has not entertained the appeal due to non-compliance of provisions of Section 35F. Hence, this appeal.

2. Shri Poojan Malhotra, learned Counsel for the appellant submits that mandatory pre-deposit as per Section 35f has been since made on 30.11.2023 &17.10.2023 and he prays that the appeal may be heard.

3. Shri Narinder Singh, learned Authorized Representative for the Department submits that as the learned appellate authority had no occasion to give his findings on the submissions of the appellants and it will be in the interest of justice to remand the matter back to the appellate authority as the provisions of Section 35F have been since complied with.

4. Heard both sides and perused the records of the case. I find that the Commissioner (Appeals) has not entertained the appeal of the appellants as they did not make the mandatory pre-deposit before him. The appellants have now complied with the provision of Section 35F and it will be in the fitness of things that the appellate authority hears the matter on merits. Accordingly, I remand the matter to the Commissioner (Appeals)/ appellate authority for a fresh decision on merits. The order in remand may be passed within 12 weeks of the receipt of this order, as far as practicable.

5. In view of the above, the appeal is allowed by way of remand.

(Dictated and pronounced in the open court)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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