CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHANDIGARH</u>

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60507 of 2024

[Arising out of Order-in-Appeal No. JNK-EXCUS-APP-10/2024 dated 06.06.2024 passed by the Commissioner (Appeals), CGST, Jammu]

M/s Versatile Polytech Private Limited **......Appellant**
Phase-II, Sidco Industrial Complex,
Bari Brahmana Samba
Jammu & Kashmir-181133

VERSUS

Commissioner of Central Excise Goods & Service Tax, Jammu **......Respondent**
OB-32, Rail Head Complex
Bahu Plaza
Jammu and Kashmir 180012

<u>APPEARANCE:</u>

Shri Gautam Chugh, Advocate for the Appellant

Shri Yashpal Singh, Authorized Representatives for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

FINAL ORDER NO. 61035/2025

DATE OF HEARING: 04.09.2025
DATE OF DECISION: 04.09.2025

Shri Gautam Chugh learned counsel for the appellant submits that the impugned order rejecting the appeal for non compliance of the mandatory pre-deposit is not sustainable in law at all. He further submits that the appellant has paid entire duty and the same has also been appropriated in the Order-in-Original and once the appellant has paid the entire duty, then as per the department's Circular No. 984/08/2014-CX dated 16.09.2014, the duty deposited and appropriated should be considered to be deposit made towards fulfilment of stipulation under Section 35F of the Central Excise Act, 1944 which has not been considered by the learned Commissioner (Appeals) while rejecting the appeal filed by the appellant vide impugned order dated 06.06.2024.

2. The Learned Commissioner (Appeals), it appears to me that without reading the provision of Section 35F and without considering the department Circular No. 984/08/2014-CX dated 16.09.2014 has

passed the impugned order. Had he read the Bare provision under Section 35F along with the circular cited (Supra) then the impugned order would not have been passed by him; it appears to me that the learned commissioner (Appeals) was very casual and negligent in passing the impugned order thereby compelling the assessee to file an appeal before the Tribunal which could have been avoided, had he been little careful in reading the provision under Section 35F along with the circular issued by CBIC.

3. In view of these circumstances, I hold that the appellant has complied with the requirement of mandatory pre-deposit under Section 35F of the Central Excise Act, 1944 and I therefore, I set aside the impugned order and remand the matter back to the learned Commissioner (Appeals) with the direction to decide the same on merits after following the principles of natural justice and thereafter, pass a reasoned order in accordance with law within the period of three months from the date of receipt of the certified copy of this order.

4. Needless to say that the learned Commissioner (Appeals) is advised to be careful in future when such proposition is raised before him so that unnecessary and unwarranted harassment of assessees can be avoided.

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

(order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

Kailash