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

REGIONAL BENCH - COURT NO. I

Appeal No. ST/60596/2019-[SM]

(Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-2139-2140-19 dated 22.02.2019 passed by the Commissioner (Appeals), Ludhiana)

Sunshine Cable **......Appellant**
(Prem Nagar, 810/24,
Civil Lines, Ludhiana)

VERSUS

Commissioner of C.E. & S.T., Ludhiana **......Respondent**
(F-Block, Rishi Nagar
Ludhiana)

WITH

Appeal No. ST/60599/2019-[SM]

(Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-2139-2140-19 dated 22.02.2019 passed by the Commissioner (Appeals), Ludhiana)

Sunshine Cable TV Network **......Appellant**
(Prem Nagar, 810/24,
Civil Lines, Ludhiana)

VERSUS

Commissioner of C.E. & S.T., Ludhiana **......Respondent**
(F-Block, Rishi Nagar
Ludhiana)

<u>APPEARANCE:</u>

None for the Appellant

Mr. H.S. Brar, Authorised Representative for the Respondent

<u>CORAM:</u> **HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**

FINAL ORDER NO. 60763-60764/2019

DATE OF HEARING/ DECISION: 19.09.2019

PER ASHOK JINDAL:

The appellants are in appeal against the impugned order wherein the appeals have been dismissed for non-compliance of the provisions of Section 83 of the Finance Act, 1994 read with Section 35F of the Central Excise Act, 1944 holding that the appellants have not deposited the mandatory pre-deposit of 7.5% of service tax confirmed against them before filing the appeals before the ld. Commissioner (Appeals).

2. None appeared on behalf of the appellants, but in the interest of justice, the appeals are taken up for consideration.

3. Heard the ld. A.R. and perused the records.

4. On perusal of the records, I find that the appellants have complied with the condition of Section 83 of the Finance Act, 1994 read with Section 35F of the Central Excise Act, 1944 on 18.02.2019 itself and the same has been intimated to the Commissioner (Appeals) on the same day. The receipt thereof is enclosed herewith below for better appreciation of the facts of the case:

18 FEB 2019

Date: - 18.02.2019

To
The Commissioner (Appeal),
Central Goods & Service Tax,
F-Block, Rishi Nagar,
Ludhiana.

Sub: - Submission of documents/information with reference to Appeal filed in the matter of M/s Sunshine Cable -Reg.

Ref:- Appeal No..769/ST/APPL/LDH/2018 dated 06.02.2019.

Dear Sir,

With due respect, it is submit that we had filed an appeal before your Good self against Order-In-Original No:- 87-107/AC/CGST/Div. North/Ldh/2018 dated 28.09.2018. Now we had received discrepancy letter mentioning reason mandatory pre-deposit has not been made. In this regard it is submit find enclosed challan of Rs.11700/-.

Thanking You.

Legal Representative
For Sunshine Cable

Encl. A/a.

5. I find that the impugned order has been passed on 22.02.2019 without appreciating the facts that the appellants have complied with the condition of the mandatory pre-deposit, which shows that authorities below are passing order in casual manner without appreciating the facts of the case. The Chief Commissioner of the Zone is directed to issue the instructions to their officers to first appreciate the facts of the case and thereafter to follow the legal procedure and to pass the order in accordance with law. The ld.

Commissioner (Appeals), in the impugned orders is not appreciable at all which forced the appellants to approach to this Tribunal by making additional pre-deposit to seek the relief against the allegations in the show cause notices issued to them.

6. As the appellants have complied with the condition of the mandatory pre-deposit, therefore, I do not find any merit in the impugned orders, the same are set aside.

7. In result, the appeals are allowed.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMEBR (JUDICIAL)

RA_Saifi