CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60522 of 2019

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-818-822-18 dated 02.04.2018 passed by the Commissioner (Appeals), Ludhiana]

M/s Mangla Gauri Fabrics **......Appellant**
Village & P.O. Bal Kalan, Majitha Road
Amritsar, Punjab

VERSUS

Commissioner of CE & ST, Ludhiana **......Respondent**
Central Excise House, F-Block, Rishi Nagar,
Ludhiana, Punjab

WITH

(ii) Excise Appeal No. 60523 of 2019

(M/s S G Processors Pvt Ltd – Village & P.O. Bal Kalan, Majitha Road Amritsar, Punjab**)**

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-818-822-18 dated 02.04.2018 passed by the Commissioner (Appeals), Ludhiana]

(iii) Excise Appeal No. 60524 of 2019

(M/s Lakshmi Printing Company – O/s Ghee Mandi, Amritsar, Punjab**)**

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-818-822-18 dated 02.04.2018 passed by the Commissioner (Appeals), Ludhiana]

(iv) Excise Appeal No. 60525 of 2019

(M/s Royal Processors – Batala Road, Amritsar, Punjab**)**

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-818-822-18 dated 02.04.2018 passed by the Commissioner (Appeals), Ludhiana]

(v) Excise Appeal No. 60526 of 2019

(M/s Suraj Bansi Printers P Ltd – Verka Majitha Bye Pass, P.O. Khanna Nagar, Amritsar, Punjab**)**

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-1089-18 dated 09.05.2018 passed by the Commissioner (Appeals), Ludhiana]

APPEARANCE:

Present for the Appellants: Mr. Gautam Chugh, Advocate
Present for the Respondents: Mr. Vijay Gupta, Authorised Representative

CORAM: HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO. 60393-60397/2020

DATE OF HEARING: 28.02.2020
DATE OF DECISION: 28.02.2020

PER ASHOK JINDAL:

The appellants are in appeal against the impugned orders, wherein the ld. Commissioner (Appeals) has dismissed their appeals for non-compliance of the provisions of Section 35F of the Central Excise Act, 1944.

2. As per the stay orders dated 06.03.2013 and 07.03.2013, the appellants failed to complied with, therefore, the ld. Commissioner (Appeals) dismissed the appeals for non-compliance of the provisions of Section 35F of the Central Excise Act, 1944 vide impugned orders dated 02.04.2018 and 09.05.2018. Against those orders, the appellants are before us.

3. Heard the parties.

4. Considering the fact that while entertaining the stay applications filed by the appellants, the ld. Commissioner (Appeals) directed the appellants to make pre-deposit of Rs. 18 lakhs, Rs. 15 lakhs, Rs. 25 lakhs, Rs. 25 lakhs and Rs. 8 lakhs respectively, which the appellants did not pay and moved the applications for

modification of stay orders, which were dismissed by the ld. Commissioner (Appeals). Therefore, the appeals were dismissed for non-compliance of the provisions of Section 35F of the Central Excise Act, 1944, but before filing the appeals before this Tribunal, the provisions of Section 35F of the Central Excise Act, 1944 were amended w.e.f. 06.08.2014 wherein it was incorporated that in case the appeal is to be filed before ld. Commissioner (Appeals) against the adjudication order, the assessee is required to make a pre-deposit of 7.5% of duty and before this Tribunal 10% of duty involved. Admittedly, the appellants have paid 10% of duty in question before filing the appeal before this Tribunal; therefore, we hold that the appellants have complied with the condition of mandatory pre-deposit in terms of Section 35F of the Central Excise Act, 1944. Therefore, the impugned orders qua, the appellants are set aside. We remand the matter back to ld. Commissioner (Appeals) to decide the matter on merits without insisting any pre-deposit to the appellants.

5. The appeals are disposed of by way of remand.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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