CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No.60291/2021

[Arising out of Order-in-Appeal No.APPEAL-PKL-COMMR-01-2021-22 dated 5.4.2021 passed by the Commissioner(Appeals), GST Bhawan, 2nd Floor, Plot No.5, Sector 25, Panchkula)

M/s.Moral Alloys Pvt.Ltd. **Appellant**
(205, Ajeet Bhawan, 4697/6, Anasari Road, Dayaganj, Delhi-110002)

VERSUS

Commissioner of CE & ST Tax,Rohtak **Respondent**
(2nd Floor, Pacific City Centre, Opposite Sahngrila Hotel, Near Jat Bhawan, Delhi Bye Pass, Rohtak)

APPEARANCE:
Present for the Appellant: Ms.Anjali Gupta, Advocate
Present for the Respondent: Ms.Shivani, AR

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

FINAL ORDER NO.60881/2021

DATE OF HEARING/ DECISION: 19.08.2021

PER ASHOK JINDAL

During the course of hearing, Ld. AR submits that the appeal was dismissed by the Commissioner (Appeals) for non compliance of provisions of section 35F of Central Excise Act, 1944 i.e. non-payment of mandatory deposit. It is also submitted by Ld.AR while filing the appeal before this Tribunal, the appellant has complied with the condition of mandatory deposit. As the Commissioner (Appeals) has not decided the matter on merits, the matter is to be remanded back to the Commissioner (Appeals) for deciding the issue on merits.

2. Heard. Ld.AR.

3. Considering the fact that the Commissioner (Appeals) has dismissed the appeal for non compliance of provisions of section 35F of Central Excise Act, 1944, at this stage, the appellant has complied with condition of mandatory deposit and the order of the Commissioner (Appeals) is not on merit. In that circumstance, I set aside the impugned order and remand back the matter to the Commissioner (Appeals) to decide the issue on merits after considering the various judicial pronouncement on the issue.

4. In these terms, the appeal is disposed of by way of remand.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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