

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI**

E/610/2009

(Arising out of Order-in-Appeal No. 121/2009 dated 29.4.2009
passed by the Commissioner of Central Excise (Appeals),
Madurai)

M/s. Srinidhi Industries Ltd.

Appellant

Vs.

Commissioner of Central Excise, Madurai

Respondent

Appearance

Shri K.S. Venkatagiri, Advocate for the Appellant

Shri K.P. Muralidharan, AC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **31.08.2017**

Final Order No. 41937/2017

Per Bench

The above appeal is filed against the order passed by
Commissioner (Appeals), who dismissed the appeal for non-
compliance of predeposit order.

2. At the time of hearing, Id. counsel Shri K.S. Venkatagiri
submitted that after filing the appeal before the Tribunal, in
compliance with the stay order passed, the appellant has made



predeposit of Rs.5 lakhs. That the same may be considered as sufficient deposit for considering the appeal.

3. Ld. AR Shri K.P. Muralidharan reiterated the findings in the impugned order.

4. Heard both sides.

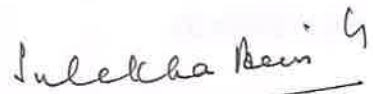
5. It is seen that the Commissioner (Appeals) has dismissed the appeal for non-compliance of predeposit. However, taking into consideration that the appellant has deposited Rs. 5 lakhs, we are of the considered opinion that the matter can be remanded back to the Commissioner (Appeals) for consideration of appeal on merits. The Commissioner (Appeals) is directed to consider the appeal on merits without insisting for further deposit under section 35F of the Central Excise Act.

6. In the result, the impugned order is set aside and the appeal is remanded to the Commissioner (Appeals).

(Operative portion of the order was pronounced in open court)



(Madhu Mohan Damodhar)
Member (Technical)



(Sulekha Beevi C.S.)
Member (Judicial)

Rex



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