

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 52995 of 2015

(Arising out of Order in Appeal no. 166 (SLM)ST/JPR/2015 dated 15.05.2015 passed by Commissioner (Appeals) of Customs, Central Excise & Service Tax, Jaipur)

Kalawat and Co.

120, Jalupura
Sansar Chandra Road
Jaipur

..... Appellant

VERSUS

Commissioner, Central Excise

NCR Building
Statute Circle, C- Scheme
Jaipur

.....Respondent

APPEARANCE:

Ms. Surabhi Sinha, Advocate for the Respondent

Ms. Jaya Kumari, Authorized Representative of the Department

CORAM :

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT

HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: November 14, 2023

FINAL ORDER NO. 51575 /2023

JUSTICE DILIP GUPTA

The order dated 15.05.2015 passed by the Commissioner (Appeals) dismissing the appeal that was filed before 01.08.2014 for the reason that the appellant has not deposited the service tax as directed by the interim order dated 17.12.2013 has led to the filing of this appeal.

2. It needs to be noted that prior to 01.08.2014, Commissioner (Appeals) had the power to waive the amount of pre-deposit, subject to certain conditions. It is for this reason that the Commissioner (Appeals), by a detailed order dated 17.12.2013,

directed the appellant to deposit Rs. 10 lakhs. The appellant did move an application for modification of the order by praying that the entire amount of pre-deposit should be waived, but this application for modification of the order was rejected by the Commissioner (Appeals) on 31.10.2014. In such circumstances, when the amount was not deposited, the Commissioner (Appeals) dismissed the appeal without going into the merits of the case.

3. Ms. Surabhi Sinha, learned counsel for the appellant has submitted that while filing this appeal after 01.08.2014 the appellant did deposit an amount of Rs. 2,05,337/- and this amount should be taken as sufficient compliance of pre-deposit for the appeal filed before the Commissioner (Appeals).

4. Ms. Jaya Kumari, learned authorised representative, appearing for the Department has submitted that there is no good reason to modify the order passed by the Commissioner (Appeals) requiring the appellant to deposit of Rs. 10 lakhs towards pre-deposit.

5. In view of the submissions made by the learned counsel for the appellant and the learned authorised representatives of the department and in view of the peculiar facts and circumstances of the case it is considered appropriate to modify the interim order passed by the Commissioner (Appeals) requiring the appellant to deposit 10 lakhs towards pre-deposit to the extent that the appellant shall now deposit Rs. 3 lakhs with the Commissioner

(Appeals). This amount would be in addition to the amount already deposited by the appellant while filing this appeal.

6. Such amount would have to be deposited by the appellant within eight weeks from the today. If an application is filed before the Commissioner (Appeals) with proof of deposit, the Commissioner (Appeals) will make all endeavours to hear the appeal on merits as expeditiously as is possible since the matter is of year the 2014.

7. The appeal is allowed to the extent indicated above. It is made clear that in case the appellant does not deposit the amount of Rs. 3 lakhs within eight weeks from today, the application if filed by the appellant, shall not be entertained.

(Dictated and pronounced in the open court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)