CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi

PRINCIPAL BENCH – COURT NO. 1

Service Tax Appeal No. 50362 Of 2018

[Arising out of Order-in-Appeal No. 407/(SM)ST/JPR/2017 dated 08.11.2017 passed by the Commissioner (Appeals) of Central Excise, Central Goods, Service Tax Jaipur]

M/s Malwan Construction Company **: Appellant**
120, Jalupura, Sansar Chandra Road, Jaipur

Versus

Commissioner of Central Goods, Service Tax and Central Excise-Jaipur-I **: Respondent**
NCR Building, Statute Circle C-Scheme
Jaipur, Rajasthan

APPEARANCE:
Ms. Priyanka Goel, Advocate for the Appellant
Shri Harshvardhan, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER No. 58071/2024

Date of Hearing:12.08.2024

Date of Decision:12.08.2024

JUSTICE DILIP GUPTA

The order dated 08.11.2017 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 23.12.2013 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 23.12.2013, directed the appellant to deposit Rs. 12 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 17.10.2014. 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. Priyanka Goel, learned counsel for the appellant has submitted that while filing this appeal after 01.08.2014 the appellant did deposit an amount about Rs. 2.56 Lakhs and this amount should be taken as sufficient compliance of pre-deposit for the appeal filed before the Commissioner (Appeals).

4. Shri Harshvardhan, 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. 12 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 12

lakhs towards pre-deposit to the extent that the appellant shall now deposit Rs. 5 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 the year 2010.

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. 5 lakhs within eight weeks from today, the application if filed by the appellant, shall not be entertained.

(Order dictated and pronounced in the open Court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.