

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:10.08.2017

Customs Appeal No.50479/2016 (DB)

[Arising out of Order-in-Appeal No.CC(A) CUS/ICD/337/2009 dated 09.11.2009
passed by the Commissioner of Customs (Bond), Inland Container Depot, New
Delhi]

M/s.APIS India Ltd.

Appellant

Vs.

CC, New Delhi

Respondent

Appearance:

Rep. by Shri Piyush Kumar, Advocate for the appellant.

Rep. by Shri A.K. Singh, DR for the respondent.

Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No.56110/2017

Per Justice Dr. Satish Chandra

The present appeal is filed against the impugned order-in-appeal no.CC(A)
Cus./ICD/337/2009 dated 09.11.2009 passed by the Commissioner of Customs
(Appeals), New Customs House, New Delhi.

2. The brief facts of the case are that the Commissioner (Appeals) has
dismissed the appeal *in liminie* for the reason that the mandatory pre-deposit was
not made. Being aggrieved, the appellant has filed an appeal before the Tribunal,
who vide its order dated 13.05.2015 has dismissed the appeal of the appellant. Not
being satisfied, the appellant has knocked the door of the Hon'ble High Court at
New Delhi, who vide its order dated 17.02.2016 has directed the Tribunal to deal
with the matter once again.

3. During the course of hearing, Shri Piyush Kumar, Id. Counsel for the appellant submits that now the mandatory pre-deposit has been made by the appellant @ 10% on 28.03.2016.

4. After hearing the rival submissions and on perusal of record, we are of the view that when the pre-deposit has been made then the appellant is entitled to get justice from the Commissioner (Appeals) on merit without raising the issue of limitation. Hence, we set aside the impugned order and remand the matter to the Commissioner (Appeals) to decide the issue *de novo* but by providing reasonable opportunity of hearing to the appellant. Fresh evidence, if necessary, may be admitted as per law.

5. In the result, the appeal filed by the appellant is allowed by way of remand.

[Order dictated & pronounced in open court]

(Justice Dr. Satish Chandra)
President

(V. Padmanabhan)
Member (Technical)

Ckp.

