

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**

REGIONAL BENCH – COURT NO.2

S.Tax Appeal No.76437 of 2019

(Arising out of Order-in-Appeal No.24/Kol-North/Kol/2018 dated 26.10.2018 passed by Commr. of CGST (Appeal I), Kolkata)

M/s M.Tech Informatics Ltd.

Prakash Jyoti, 5th Floor,
188/1B, Manicktala Main Road,
Kankurgachi,
Kolkata-700054

Applicant (s)

VERSUS

Commr. of CGST, Kolkata North

180, Shantipally,
Rajdanga Main Road,
Kolkata-700107

Respondent (s)

APPEARANCE :

None for the appellant

Shri S.S.Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. P.K.CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO.75611/2019

DATE OF HEARING : 18.06.2019

DATE OF DECISION : 18.06.2019

PER P.K.CHOUDHARY :

When the matter is called, none appeared on behalf of the appellant. No adjournment application has been received.

2. Heard the Id.A.R. for the Revenue and perused the appeal records.

3. After going through the appeal records, I find that the appellant did not pay the mandatory pre-deposit of 7.5% before the

Id.Commissioner (Appeals) as required under Section 35F of the Central Excise Act, 1944 as made applicable to service tax vide Section 83 of the Finance Act, 1944. Accordingly, the appeal of the appellant was rejected by the Id.Commissioner (Appeals) without going into the merits of the case, under Section 35F of the Central Excise Act, 1944 for non-compliance of mandatory pre-deposit of 7.5%. Now, the appellant has deposited the entire mandatory predeposit of 10% (7.5% + 2.5%) before the Tribunal. Since the appellant has complied with by depositing the mandatory requirement, I am of the considered view that the Commissioner (Appeals) should decide the matter afresh on merit. Accordingly, the matter is remitted back to the Commissioner (Appeals) to decide on merit and to pass the order in accordance with law. Needless to mention that a reasonable opportunity of hearing be granted to the appellant.

4. The appeal filed by the Appellant is allowed by way of remand.

(Dictated and pronounced in the open court.)

Sd/
(P. K. Choudhary)
Member (Judicial)

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