IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA

REGIONAL BENCH - COURT NO.2

Excise Appeal No.57 of 2010

(Arising out of Order-in-Appeal No.167/Kol-III/09 dated 26.10.2009 passed by Commissioner of Central Excise (Appeal-I), Kolkata.)

M/s. A.R.Stanchem Private Limited
(9, Hemanta Basu Sarani, Cook & Kelvy Building, Kolkata-700001.)

...Appellant

VERSUS

Commissioner of Central Excise, Kolkata-III

.....Respondent

(Adjudication Cell, 169, A.J.C.Bose Road,
Bamboo Villa 7th Floor, Kolkata-700014.)

APPEARANCE

Shri N.K.Chowdhury & Shri Arijit Chakraborty, Advocates for the Appellant (s)
Shri A.Roy, Authorized Representative for the Respondent (s)

CORAM: HON'BLE SHRI P.K.CHOUDHARY, MEMBER(JUDICIAL)
HON'BLE SHRI P.ANJANI KUMAR, MEMBER(TECHNICAL)

FINAL ORDER NO. 75560/2020

DATE OF HEARING : 14 October 2020
DATE OF DECISION : 14 October 2020

P.K.CHOUDHARY :

We find that the learned Commissioner(Appeals) has dismissed the appeal filed by the appellant before him on the ground of non-compliance with the provisions of section 35F of the Central Excise Act, 1944, without going into the merits of the case. Thereafter, the appellant has filed appeal before this Tribunal on 25.01.2010. They have also deposited an amount of Rs.10,00,000/- (Rupees Ten Lakhs only) on 31.05.2012 as a condition for hearing of their appeal.

2. Heard both sides and perused the appeal records.

3. We find that the learned Commissioner(Appeals) has not decided the case on merits, but has dismissed the appeal on the ground of non-compliance with the provisions of section 35F of the Central Excise Act, 1944. After filing appeal before the Tribunal, the appellant has deposited an amount of Rs.10,00,000/-(Rupees Ten Lakhs only), which, in our opinion, is sufficient to hear their appeal on merits.

4. In view of the above discussion, the appeal filed by the appellant is allowed by way of remand to learned Commissioner(Appeals) for deciding the case on merits, without insisting on any further pre-deposit. Needless to mention, the appellant should be allowed a reasonable opportunity of hearing. All issues are kept open. Both sides are at liberty to place evidences in their favour.

Appeal allowed by way of remand to learned Commissioner(Appeals).

(Operative part of the order was pronounced in the open Court.)

SD/
(P.K.CHOUDHARY)
MEMBER (JUDICIAL)

SD/
(P.ANJANI KUMAR)
MEMBER (TECHNICAL)

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