

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

REGIONAL BENCH – COURT NO.2

Excise Appeal No.78193 of 2018 & CO/77384/2018

(Arising out of Order-in-Appeal No.178/HAL/CE/2017-18 dated 27.03.2018 passed by Commissioner (Appeals) of Central Excise, Kolkata)

M/s Prime Technoplast Pvt. Ltd.

Jalan Industrial Complex, NH-6, Gate No.1, Biparna Para Begri, Domjur, Howrah

Appellant

VERSUS

Commissioner of CGST & Excise, Haldia

15/1 Strand Road, Kolkata-700001

Respondent

WITH

Excise Appeal No.78194 of 2018 & CO/77388/2018

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Commissioner of CGST & Excise, Haldia

15/1 Strand Road, Kolkata-700001

Respondent

Appearance:

Shri Bimal Kumar Gupta, Authorized Representative for the Appellant
Shri K. Chowdhury, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI P. K. CHOUDHARY, JUDICIAL MEMBER

FINAL ORDER NO.75207-75208/2022

DATE OF HEARING : 13.04.2022

DATE OF DECISION : 13.04.2022

PER P.K.CHOUDHARY :

After hearing both sides and on perusal of appeal records, I find that the Id. Commissioner (Appeals) has not decided the appeal on merit and he has simply dismissed the appeals of the appellants as not

Excise Appeal Nos.78193,78194/2018

maintainable for not depositing the mandatory pre-deposit of 7.5% of penalty imposed on them as required under Section 35F of the Central Excise Act, 1944. Now, the appellants have deposited 10% of the disputed amount as mandatory pre-deposit. However, since the lower appellate authority has not decided the appeals on merit, I find it appropriate to remand the matters to the lower appellate authority to decide the appeals on merit. Needless to mention, a reasonable opportunity of hearing be granted to the appellants to present their cases. Both sides are at liberty to produce evidences in their support. Cross Objections also get disposed off.

Dictated and pronounced in the open Court.

Sd/

(P.K.Choudhary)
Member (Judicial)

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