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

REGIONAL BENCH - COURT NO.2

Service Tax Appeal No.76322 of 2018

(Arising out of Order-in-Appeal No.17/ST/B-I/2009 dated 25.03.2009 passed by Commissioner(Appeals), Central Excise, Customs & Service Tax, Bhubaneswar.)

M/s. X-Security Service Private Limited
(Plot No.1468/4564, I.R.C. Village, Nayapally, Bhubaneswar-751015, Odisha.)

...Appellant

VERSUS

Commissioner of CGST & CX, Bhubaneswar Commissionerate

.....Respondent

(Central Revenue Building, Rajaswa Vihar, Bhubaneswar-751007, Odisha.)

APPEARANCE

Shri Ashok Gupta & Ms.Roshni Gupta, both Advocates for the Appellant (s)
Shri A.Roy, Authorized Representative for the Respondent (s)

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

FINAL ORDER NO. 75278/2022

DATE OF HEARING : 18 May 2022
DATE OF DECISION : 18 May 2022

P.K.CHOUDHARY :

I find that the Ld. 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 27.04.2018. They have also deposited an amount of Rs.52,515/- (Rupees Fifty Two Thousand Five Hundred and Fifteen only) on 23.04.2018 as a condition for hearing of their appeal.

2. Heard both sides and perused the appeal records.

3. I find that the Ld. 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. Before filing appeal before the Tribunal, the appellant has deposited an amount of Rs.52,515/- (Rupees Fifty Two Thousand Five Hundred and Fifteen only) on 23.04.2018, which, in my 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 Ld. 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 is allowed by way of remand to Ld. Commissioner(Appeals).

(Dictated and pronounced in the open Court.)

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

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