

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA
REGIONAL BENCH – COURT NO.2**

Customs Appeal No. 75578 of 2020

(Arising out of Order-in-Appeal No.KOL/CUS/(PREV)/SLG/AKR/578/2020 dated 16.09.2020 passed by Commissioner (Appeals) of Customs, Kolkata.)

Shri Rajesh Saha,
(S/o Lt. Kanchan Sah,
Denguajhar, Bhagatsing colony, PS-Kotowali,
Jalpaiguri-735121)

Appellant (s)

VERSUS

Commr. of Customs (Preventive), Siliguri
(C. R. Building, Haren Mukherjee Road,
Hakimpara, Siliguri-734001, W.B.)

Respondent (s)

APPEARANCE :

None for the Appellant

Mr. Sourav Chakraborty, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO.75006/2023

Date of Hearing : 13 January 2023

Date of Decision : 13 January 2023

PER P. K. CHOUDHARY :

When the matter was called, none appeared on behalf of the Appellant. However, a written Communication has been received from the appellant on 21/12/2022 praying for disposal of their appeal on the basis of the available documents in the appeal file. It is also mentioned that the appellant, owing to financial problem, is not in a position to travel to Kolkata from Jalpaiguri to appear before the Tribunal. With the consent of Ld. Departmental Representative, the appeal is taken up for hearing.

2. Heard the Learned Departmental Representative and perused the appeal records.

3. I find that the Ld. Commissioner (Appeals) has not decided the appeal on merits and rejected the same for non-compliance with the statutory requirement of pre-deposit. I find from the records that the appellant has paid Rs. 18,000/- being 10% of the penalty amount on 01/12/2020 towards the pre-deposit amount. Since, the Commissioner (Appeals) has not decided the appeal on merits, I find it appropriate to remand the matter to the Ld. Commissioner (Appeals) to decide the appeal on merits.

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3. Needless to mention, a reasonable opportunity of hearing should be granted to the Appellant. All issues are kept open. Both sides are at liberty to place evidences in their favour.

4. Appeal is allowed by way of remand to Learned Commissioner (Appeals).

(Dictated and pronounced in the open Court.)

Sd/-

(P. K. Choudhary)
Member (Judicial)

Pooja