

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

REGIONAL BENCH – COURT NO.2

Excise Appeal No.75117 of 2023

(Arising out of Order-in-Appeal No.79/HWH/CE/2022-23 dated 23.02.2023 passed by Commissioner (Appeals) of CGST & Excise, Kolkata)

M/s Universal Bituminous Industries Private Limited

P.O. & Vill.-Jala Dhulagory, Sankrail Industrial Park, NH-6, Howrah-711302

Appellant

VERSUS

Commissioner of CGST & Excise, Howrah

15/1, Strand Road, Kolkata-700001

Respondent

APPEARANCE :

Shri R.Pakrashi, Director of the Appellant

Shri S.Mukhopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO...76063/2023

DATE OF HEARING : 11 .07.2023

DATE OF DECISION : 11 .07.2023

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the Id.Commissioner (Appeals) dismissed the appeal for non-compliance of the mandatory pre-deposit of 7.5% of duty in terms of Section 35F of the Central Excise Act, 1944.

2. Today, when the matter was called, it was found that the appellant has made the said mandatory pre-deposit of 10% as required to file the appeal before this Tribunal in terms of Section 35F of the Central Excise Act, 1944.

3. In that terms, we hold that the appellant has complied with the mandatory pre-deposit of the provisions under Section 35F of the Central Excise Act, 1944, but we find that the Id.Commissioner

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(Appeals) has not decided this issue on merit. Therefore, we remand the matter to the Id.Commissioner (Appeals) to decide this issue on merit without insisting any further pre-deposit from the appellant.

4. It would be advisable to the Id.Commissioner (Appeals) to decide this issue on merit within 60 days from the date of receipt of this order.

Dictated and pronounced in the open Court.

Sd/-
(Ashok Jindal)
Member (Judicial)

Sd/-
(K.Anpazhakan)
Member (Technical)

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