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

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 75079 of 2015

(Arising out of Order-in-Appeal No. 56-57/KOL-II/2014 dated 14.10.2014 passed by the Commissioner of Central Excise (Appeal-III), Kolkata, Kendriya Utpad Shulk Bhawan, R.B. Connector, Rajdanga Main Road, 180, Shantipally, Kolkata – 700 107)

M/s. Steel Products Limited (Unit-I) **: Appellant**
96, Garden Reach Road,
Kolkata – 700 023

VERSUS

Commissioner of Central Excise **: Respondent**
Central Excise Commissionerate: Kolkata-II,
M.S. Building, Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Excise Appeal No. 75080 of 2015

(Arising out of Order-in-Appeal No. 56-57/KOL-II/2014 dated 14.10.2014 passed by the Commissioner of Central Excise (Appeal-III), Kolkata, Kendriya Utpad Shulk Bhawan, R.B. Connector, Rajdanga Main Road, 180, Shantipally, Kolkata – 700 107)

Shri Hemant Kumar Khaitan, Managing Director, **: Appellant**
M/s. Steel Products Limited (Unit-I)
96, Garden Reach Road,
Kolkata – 700 023

VERSUS

Commissioner of Central Excise **: Respondent**
Central Excise Commissionerate: Kolkata-II,
M.S. Building, Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Excise Appeal No. 75081 of 2015

(Arising out of Order-in-Appeal No. 58-59/KOL-II/2014 dated 14.10.2014 passed by the Commissioner of Central Excise (Appeal-III), Kolkata, Kendriya Utpad Shulk Bhawan, R.B. Connector, Rajdanga Main Road, 180, Shantipally, Kolkata – 700 107)

M/s. Steel Products Limited (Unit-I) **: Appellant**
96, Garden Reach Road,
Kolkata – 700 023

VERSUS

Commissioner of Central Excise **: Respondent**
Central Excise Commissionerate: Kolkata-II,
M.S. Building, Custom House, 15/1, Strand Road,
Kolkata – 700 001

AND

Excise Appeal No. 75082 of 2015

(Arising out of Order-in-Appeal No. 58-59/KOL-II/2014 dated 14.10.2014 passed by the Commissioner of Central Excise (Appeal-III), Kolkata, Kendriya Utpad Shulk Bhawan, R.B. Connector, Rajdanga Main Road, 180, Shantipally, Kolkata – 700 107)

Shri Hemant Kumar Khaitan, Managing Director, M/s. Steel Products Limited (Unit-I) **: Appellant**
96, Garden Reach Road,
Kolkata – 700 023

VERSUS

Commissioner of Central Excise **: Respondent**
Central Excise Commissionerate: Kolkata-II,
M.S. Building, Custom House, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri N.K. Chowdhury, Advocate for the Appellant(s)

Shri Prasenjit Das, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOs. 75597-75600 / 2024

DATE OF HEARING / DECISION: 20.03.2024

Order : [Per Shri Ashok Jindal]

Today, when the appeals were taken up for disposal, the Ld. Advocate appearing on behalf of the appellants submits that in all these cases, the Ld. Commissioner (Appeals) has dismissed their appeals for non-compliance of pre-deposit in terms of the provisions of Section 35F of the Central Excise Act, 1944.

1.1 The Ld. Advocate further submits that these appeals have been filed by the appellants after the amended provisions of Section 35F of the Central Excise Act, 1944 came into force with effect from 06.08.2014 and they have made the pre-deposit of

10% of duty in all the cases; therefore, they have complied with the mandatory provision under Section 35F of the Central Excise Act.

1.2 In these circumstances, it is prayed that as the Ld. Commissioner (Appeals) has not decided the issue on merits and hence, the matter may be remanded to the Ld. Commissioner (Appeals) to decide the issue on merits.

2. Heard the Ld. Advocate for the appellants and perused the records.

3. We find that at present, the appellants have complied with the mandatory provision of Section 35F of the Central Excise Act, 1944 and in the impugned orders, the Ld. Commissioner (Appeals) has not passed any order on merits. Therefore, it would be in the interests of justice to set aside the impugned orders and remand the matter back to the Ld. Commissioner (Appeals) to decide the issue on merits.

3.1 Accordingly, we set aside the impugned order and remand the matter back to the Ld. Commissioner (Appeals) to decide the issue on merits without insisting on any further pre-deposit from the appellants.

4. The appeals are disposed of by way of remand.

(Dictated and pronounced in the open court)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sdd