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

REGIONAL BENCH – COURT NO. 2

Service Tax Appeal No.75589 of 2024

[Appeal Diary No. 75692/2024-Defect]

(Arising out of Order-in-Appeal No. 345/BOL-ST/2023-24 dated 17.01.2024 passed by the Commissioner of Appeal CGST & Central Excise Siliguri(Appeal) Commissionerate C.R. Building, Haren Mukherjee Road, Hakimpara, Siliguri-734 001)

M/s. Techs, : **Appellant**
Techs House, Samannopallay, Suri,
Birbhum-731101, West Bengal

VERSUS

Commissioner of Central Excise & Service Tax, : **Respondent**
Bolapur Commissionerate
Nanoor Chandidas Road, Sian,
Bolapur, Birbhum-731204

APPEARANCE:

Shri Barun Kumar Gorai, Representative for the Appellant

Shri P. K. Ghosh, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.75923/ 2024

DATE OF HEARING / DECISION: 15.05.2024

ORDER : [PER SHRI R. MURALIDHAR]

The Registry has raised Defect Memo on certain issues. After going through the case history, we find that the issue is in a very short compass. Therefore, we take the view that defects have been cured and direct the Registry to give the appeal number to this case.

2. With the consent of the Ld. Authorized Representative for the Revenue, the appeal itself has been taken up for disposal today.

3. The appellant is contesting the confirmed Service Tax demand of Rs.54,86,660/- before the Ld. Commissioner (Appeals).

3.1. In the Order-in-Original it is seen that Rs.26,30,017/- paid by them was appropriated. Since this amount was more than the 7.5% pre-deposit amount to be paid while filing an appeal before the Commissioner (Appeals), the appellant did not make any further pre-deposit payment. However, the Ld. Commissioner (Appeals) has dismissed the appeal on the sole ground that payment of Rs.26,30,017/- cannot be accepted as part of the pre-deposit.

4. Being aggrieved the appellant is before the Tribunal.

5. We find from the Order-in-Original that this amount of Rs.26,30,017/- was duly considered by the ld. Adjudicating authority and was also appropriated against the demand of Rs.54,86,660/-. It is clear that the appellant is contesting the entire confirmed demand of Rs.54,86,660/-, as can be seen from ST-5 filed before the Tribunal. Therefore, the amount of Rs.26,30,017/- already appropriated would be more than sufficient to meet the pre-deposit condition. The Commissioner (Appeals) is in error to ignore this fact.

6. We hold that the appellant has made the requisite pre-deposit and direct the Ld. Commissioner (Appeals) to take up the appeal on merits and pass a considered decision within a period of four months from the date of receipt of this Order.

(Dictated and pronounced in the open court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP