

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

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 76257 of 2024

(Arising out of Order-in-Appeal No. 223/SLG-ST/2023-24 dated 20.09.2023 passed by the Commissioner of Appeal, C.G.S.T. & C.X., Siliguri (Appeal) Commissionerate, C.R. Building, H.M. Road, Hakimpura, Siliguri – 734 001)

M/s. Arjun Rai

: Appellant

C/o. Rai Construction Co.,
Kotwali Bazar, Jalpahar Road,
Darjeeling, PIN – 734 101

VERSUS

Commissioner of C.G.S.T. and Central Excise

: Respondent

Siliguri Commissionerate,
Central Revenue Building, H.M. Road, Hakimpura,
Siliguri, PIN – 734 001

APPEARANCE:

Shri Debashis Ghoshal, Advocate,
For the Appellant

Shri Debapriya Sue, Authorized Representative,
Shri S.K. Jha, Authorized Representative,
for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

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

FINAL ORDER NO. 76026 / 2026

DATE OF HEARING / DECISION: 05.08.2026

ORDER: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order wherein their appeal has been dismissed by the Ld. Commissioner (Appeals) on the ground of non-compliance of the mandatory provisions of Section 35F of the Central Excise Act, 1944 read with Section 129E of the Customs Act, 1962, without discussing the merits of the case.

2. Heard the parties.

3. We find that the appellant has complied with the mandatory provisions laid down under Section 35F of the Central Excise Act, 1944 read with Section 129E of the Customs Act, 1962. Therefore, holding that the appellant has complied with the mandatory provisions of Section 35F of the Act read with Section 129E of the Act, we set aside the impugned order. Further, we take note of the fact that in the impugned order, the Commissioner (Appeals) has not decided the issue on merits. Therefore, we remand the matter back to the Commissioner (Appeals), to decide the issue on merits, within a period of sixty days from the date of receipt of this order.

4. The appeal is disposed of by way of remand.

(Dictated and pronounced in the open court)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd