

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO. IV**

Application No. E/MISC/85453/18 in Appeal No. E/86215/18
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(Arising out of Order-in-Appeal No. NSK/EXCUS/000/APPL/192/17-18 dated 09.02.2018 passed by the Commissioner of Central Excise & GST (Appeals), Nashik).
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M/s Sipra Engineers Pvt. Ltd.

Appellant

Vs.

Commissioner of Central Excise & GST, Nashik

Respondent

Appearance:

Shri M.S. Jagesha, Advocate

for Appellant

Shri A.B. Kulgod, AC (AR)

for Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
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Date of Hearing: 05.06.2018

Date of Decision: 05.06.2018

ORDER NO. **M/85606/2018**

Per: Dr. D.M. Misra

Heard both sides.

2. This is an application seeking waiver of pre-deposit of penalty of Rs.1,39,787/- imposed and confirmed under Rule 15(2) of the CENVAT Credit Rules, 2004 read with Section 11AC of the Central Excise Act, 1944.

3. Learned Advocate for the appellant submits that they deposited the entire amount of CENVAT credit and now they

dispute the imposition of penalty. Counsel submits that they have a good case on merit, hence pre-deposit of the penalty be waived.

4. Learned Authorised Representative for the Revenue submits that in view of the amended Section 35F of the Central Excise Act w.e.f 6.8.2014, the appellant is required to deposit the amount specified under the said provisions, irrespective of whether there is a *prima facie* case or otherwise.

5. I find force in the contention of the learned AR for the Revenue. Consequently, the appellant is directed to comply the provisions of Section 35F of the Central Excise Act, 1944. At this stage, the learned Advocate for the appellant submits that they may be given an opportunity to deposit the amount within four weeks. Learned Authorised Representative for the Revenue has no objection.

6. Consequently, the appellant is directed to deposit the requisite amount within a period of four weeks from the date of the communication of the order. Failure to deposit the amount will result in dismissal of appeal without further notice.

7. MA (ors) is disposed of in the above terms.

(Dictated and pronounced in the Court)

(Dr. D.M. Misra)
Member (Judicial)

Sinha