# CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

## REGIONAL BENCH

### SERVICE TAX APPEAL NO: 85436 of 2019

[Arising out of Order-in-Appeal No: PUN-EXCUS-001-APP-0032/18-19 dated 24th April 2018 passed by the Commissioner of Central Tax (Appeals), Pune–I.]

Rohit Springforms Pvt Ltd
T-173 MIDC, Bhosari, Pune – 411 026 ... ***Appellant***

*versus*

Commissioner of Central Tax
Pune – I
Excise Bhavan, Akurdi, Pune – 411 044 ***...Respondent***

*APPEARANCE:*

None for the appellant

Shri Nitin Ranjan, Assistant Commissioner (AR) for the respondent

**CORAM:**

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

### FINAL ORDER NO: A/87296 / 2019

DATE OF HEARING: 11/12/2019
DATE OF DECISION: 11/12/2019

The appellant is in appeal against the impugned order wherein interest has been denied for amount deposited under Section 35F of the Central Excise Act, 1944.

2. The facts of the case are that, before filing appeal before

this Tribunal, the appellant made certain deposit under Section 35F of Central Excise Act, 1944. After succeeding in appeal before this Tribunal, the appellant claimed refund of the amount deposited for entertaining their appeal before the Tribunal under Section 35F of Central Excise Act, 1944 along with interest. At the time of entertaining the refund claim, it was observed that for filing appeal before the Tribunal, the appellant was required to deposit only 7.5% of the duty or penalty but the amount deposited by the appellant for entertaining the appeal is more than 7.5% of the duty. Therefore, interest on the excess amount (i.e. above 7.5% of the duty) deposited by the appellant was denied holding that the said amount has not been deposited under Section 35F of Central Excise Act, 1944, therefore, in terms of Section 35FF of the Act, interest cannot be claimed by the appellant. Against the said order, the appellant is before me.

3. None appeared on behalf of the appellant. Request has been received from the appellant to dispose off the appeal on its own merits.

4. The Learned Authorised Representative submits that the excess amount paid by the appellant is not a pre-deposit in terms of Section 35F of the Central Excise Act, 1944 and, therefore, the question of payment of interest under Section 35FF of the Act does not arise. In these terms, he prays that the appeal be dismissed.

5. Heard Learned Authorised Representative and perused the

records.

6. On perusal of the records, I find that the appellant has filed a refund claim for the amount deposited as pre-deposit for entertaining their appeal by this Tribunal and any pre-deposit made by the assessee is a deposit under Section 35F of the Central Excise Act, 1944. The appellant has rightly claimed interest under Section 35FF of the Act on refund of pre-deposit made by them under Section 35F of the Act. Appellant has claimed interest under Section 35FF for the amount deposited by them for entertaining their appeal by this Tribunal. Therefore, I hold that the appellant is entitled to claim interest on the pre-deposit i.e. the whole amount deposited by the appellant for entertaining the appeal. In these terms, I do not find any merit in the impugned order and the same is set aside.

7. In the result, the appeal is allowed with consequential relief.

(Dictated and Pronounced in open court)

**(Ashok Jindal)**
***Member (Judicial)***

**/as*