CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH

Excise Appeal No. 87019 of 2013

(Arising out of Order-in-Appeal No. BC/626/M-III/2012-13 dated 12.03.2013 passed by the Commissioner of Central Excise (Appeals), Navi Mumbai.)

M/s. GlaxoSmithkLine Pharmaceuticals Ltd. ....Appellant
252DR, Annie Besant Road,
Worli, Mumbai – 400 018

VERSUS

Commissioner of Central Excise, Mumbai - III ....Respondent
3rd & 4th Floor, Vardaan Centre,
MIDC Wagle Industrial Estate,
Thane (W), Mumbai – 400 604.

APPERANCE:

Shri Rajesh Ostwal, Advocate for the Appellant

Shri Sunil Kumar Katiyar, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85580/2023

Date of Hearing: 21.04.2023
Date of Decision: 21.04.2023

PER: BENCH

Heard both the sides. Learned Counsel submits in the present case Commissioner (Appeals) had directed for pre-deposit as per Section 35F of Central Excise Act of 25% of disputed duty amount which was not deposited by them. Hence appeal was dismissed for non-compliance without any orders on merit. They filed appeal against the order of dismissal of appeal before tribunal alongwith application for stay as per Section 35F Tribunal directed pre-deposit of 25% which was compiled by the appellant.

2. As the appellant had deposited 25% of disputed duty the matter needs to remanded back to Commissioner (Appeals) for decision of merit. This could have been done even at time of noting the compliance. Heard Authorised Representative agrees that matter needs to be considered by Commissioner (Appeals) on merit having considered the impugned order with the submissions as above we agree that matter needs to be remanded to Commissioner (Appeals) for de-novo consideration on merits.

3. Appeal is, therefore, allowed and matter remanded to Commissioner (Appeals) for de-novo consideration on merits. As matter is quite learned Commissioner (Appeals) should decide with three months of receipt of this order.

(Dictated & Pronounced in open court)

(Sanjiv Srivastava)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Sujeet