CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 85682 of 2023

(Arising out of Order-in-Appeal No. MUM-CUSTM-AMP-APP-1442/2021-22 dated 11.01.2022 passed by the Commissioner of Customs (Appeals), Mumbai Zone- III)

MSA India Ltd. .... **Appellant**
Surabhi Building, 3rd Floor, Room No. 5 & 6,
8/1/2, Dr U.N. Bhramachari Street,
Kolkata, West Bengal- 700 017.

Versus

Commissioner of Customs (Import), ... **Respondent**
Mumbai (Air Cargo Import)
Air Cargo Complex, Navpada, Sahar Village,
Andheri East, Mumbai- 400 099.

APPEARANCE:

Shri Mihir Deshmukh, Advocate for the Appellant

Shri Krishna Azad, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86679/2025

Date of Hearing: 15.09.2025

Date of Decision: 15.09.2025

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. The learned Commissioner of Customs (Appeals), Mumbai-III has rejected the appeal filed by the appellant on the ground that the requirement of Section 129E of the Customs Act, 1962 has not been complied with. When the matter was called out for hearing, learned Advocate appearing for the appellant submitted that though the requirement of pre-deposit was not complied with at the time of filing of appeal before the learned Commissioner (Appeals), but the entire amount of 10% of the adjudged duty was paid by the appellant at the time of filing of the appeal before the Tribunal.

3. Learned Authorized Representative appearing for the Revenue has also confirmed that the appellant had deposited 10% of the adjudged duty amount at the time of filing of appeal before the Tribunal. Considering the fact that the requirement of Section 129E *ibid* has been complied with, though belatedly, but considering the fact that the amount in question has already been pre-deposited by the appellant, I am of the view that the merits of the case involved in the present appeal has to be decided. Since, the learned Commissioner (Appeals) has not decided the merits of the case and rejected the appeal solely on the ground for non-compliance with the requirement of Section 129E *ibid,* I am of the view that the matter should be remanded back to him for deciding the appeal afresh, on the basis of the available records.

4. Therefore, the impugned order is set aside and the appeal is allowed by way of remand to the learned Commissioner (Appeals) for deciding the appeal on merits. Needless to say that the opportunity of personal hearing should be granted to the appellant before deciding the issue afresh.

5. In the result, the appeal is allowed by way of remand.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

SM