CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH, MUMBAI

Service Tax Appeal No. 86678 of 2022

[Arising out of Order-in-Appeal No. DL/241/RGD-APP/2021-22 dated 14.02.2022 passed by the Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigarh.]

M/s Maneesh Pharmaceuticals Ltd. ....Appellant
Plot No. 29-33, Ancillary Indl. Plots,
Govandi, Mumbai – 400 074

VERSUS

Commissioner of CGST, Navi Mumbai ....Respondent
10th Floor, Satra Plaza, Palm Beach Road,
Sector 19D, Vashi, Navi Mumbai,
Maharashtra – 400 705

APPERANCE:

Shri Mohit Rawal, Advocate for the Appellant
Shri S.B.P. Sinha, Superintendent, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. 86727/2025

Date of Hearing: 17.10.2025
Date of Decision: 29.10.2025

Denial of relief sought before the Commissioner (Appeals) against adjudication order confirming demand of Service Tax due under the Reverse Charge Mechanism only on the ground that pre-deposit was made through DRC-03, electronic cash ledger *vide* debit entry, is assailed before this Tribunal by the Assessee-Appellant.

2. Fact of the case would go to reveal that Appellant is a manufacturer of medicants. Upon Audit pointing out irregularity,

Appellant discharged Service Tax liability payable under RCM for the month of June, 2017 in the month of December, 2017 and noted the same in its monthly return filed in Form GSTR-3B but it was issued with a show-cause notice, pursuant to the said Audit report, for recovery of tax dues of ₹4,71,283/- alongwith interest and equal penalty by invoking extended period with proposal to appropriate of ₹2,27,552/- paid in their GSTR-3B for 2017 that was confirmed through an adjudication order and Appellant's unsuccessful attempt before the Adjudicating Authority as well as the Commissioner (Appeals) has brought the dispute to the present forum.

3. I have heard submissions from both the sides and perused the case record as well as relied upon judgments. At the outset it is to be placed on record that when out of the confirmed demand amount of ₹4,71,283/-, an amount of ₹2,27,552/- was already paid before appeal was preferred at the Commissioner (Appeals) level, for an amount of pre-deposit restricted to 7.5% of the confirmed tax demand i.e. ₹35,346/- no appeal should have been dismissed for want of pre-deposit, let it be not paid at all or paid through a different challan (DRC-03) not meant for pre-deposit, apart from the fact that judicial decision is consistent in its finding that deposit made through DRC-03 by debiting electronic cash or credit ledger is a valid pre-deposit [*M/s. Saphire Cables & Services Pvt. Ltd. and Others Vs. Commissioner of CGST & CE, Belapur – 2023 (7) TMI 544 – CESTAT MUMBAI*] and every such deposit made before 28.10.2022 i.e. the date of issue of CBEC Board Circular is to be accepted as deposit made under Section 35F of the Central Excise Act, 1944, applicable also to Service Tax matters.

4. During course of hearing of the appeal also learned Counsel for the Appellant has drawn attention of this Bench to the judgment passed by Hon'ble Bombay High Court in the case of *M/s. In Net India Private Limited & Another's Vs. Commissioners of Central Excise … , as reported in 2024 (12) TMI 223 – Bombay High Court*, wherein clear finding is available to the effect that pre-deposit made in one form or

another is to be accepted as valid pre-deposit instead of placing hyper-technical contention by the Respondent that would require refund of the amount of pre-deposit made in one form and depositing again the same amount in another form in the same account maintained by the Government of India for depositing tax. Therefore deposit made through cash in DRC-03 form is a valid deposit and since learned Commissioner (Appeals) had not passed any order on the merit of the appeal as required under Rule, 35A(4) of the Central Excise Act, 1944, equally applicable to Service Tax matters in view of operation of Section 85(5) of the Finance Act 1994, in stating the points for determination, the decision thereon and the reasons for such decision, the matter is required to be remanded back to the Commissioner (Appeals) for hearing afresh. Hence the order.

THE ORDER

5. The appeal is allowed by way of remand to the Commissioner (Appeals) with an observation that valid pre-deposit has been made before filing of appeal before the Commissioner (Appeals). *De novo* hearing of the appeal be taken up and completed as per provision contained in Section 35A(4) of the Central Excise Act, 1944 equally applicable to Service Tax matters. Parties be noticed to participate in the hearing and for this purpose, the order passed by the Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Raigarh *vide* Order-in-Appeal No. DL/241/RGD-APP/2021-22 dated 14.02.2022 is hereby set aside.

(Order pronounced in the open court on 29.10.2025)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Prasad