

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 23.10. 2017

**Excise Appeal No. 51305 of 2016**

(Arising out of order-in-appeal No. RPR-EXCUS-000-AAPL-023-14-15 dated 06.02.2015 passed by the Commissioner of Central Excise, Customs and Service Tax (Appeals), Raipur).

M/s Ayurvighan Proyogshala Pvt. Ltd. Appellant

Vs.

CC&CE, Jabalpur

Respondent

Appearance:

None for the assessee

Sh. S. K. Bansal, AR for the Revenue

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President

Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No. 57423/2017

Per: **Mr. Justice (Dr.) Satish Chandra:**

The present appeal is filed against the order-in-appeal No. RPR-EXCUS-000-AAPL-023-14-15 dated 06.02.2015 passed by the Commissioner of Central Excise, Customs and Service Tax (Appeals), Raipur. The period of dispute is Nov. 2010 to August, 2011.

2. List revised. None present on behalf of the appellant nor any adjournment request is available on record. In the absence of the ld. Counsel for the appellant, we heard Sh. S. K. Bansal, ld. AR for the department who stated that the Commissioner (Appeals) has dismissed the appeal for want of mandatory pre-deposit as per Section 35F of the Central Excise Act, 1944.

3. From the record, it appears that on 08.04.2016, the appellant has made the deposit of Rs. 43,832/- as pre-deposit. The challan of the State Bank of India is available on record. Ld. AR for the department has agreed that the appellant has made the pre-deposit belatedly.

4. By considering the totality of facts and circumstances of the case, we are of the view that when the appellant has made mandatory pre-deposit, then we set aside the impugned order and remand the matter to the Commissioner (Appeals) to decide the appeal on merit, but by providing an opportunity of hearing to the appellant. Fresh evidence, if necessary, may be admitted as per law.

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

(Dictated and pronounced in the open Court).

(V. Padmanabhan)  
Member (Technical)

(Justice (Dr.) Satish Chandra)  
President

Pant