CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 51134 of 2017 with
Service Tax COD Application No. 50565 of 2017

(Arising out of Order-in-Appeal No. BHO-EXCUS-002-APP-007-15-16 dated 06.04.2015 passed by the Commissioner (Appeals), Customs, Central Excise & Service Tax, Raipur)

DATE OF HEARING : 13.09.2017
DATE OF DECISION : 13.09.2017

M/s Saluja Transport Company …. Appellants
(Rep by Ms. Rinky Arora, Adv.)

VERSUS

CCE, Jabalpur …. Respondent
(Rep. by Sh Ranjan Khanna, DR)

CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. V. PADMANABHAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 56564/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

The CoD Application for delay in filing the appeal is allowed for the reasons mentioned therein.

2. With the consent of both sides, we decide the appeal on merits.

3. The present appeal is filed by the assessee-Appellants against the Order-in-Appeal No. BHO-EXCUS-002-APP-007-15-16

dated 06.04.2015 passed by the Commissioner (Appeals), Customs, Central Excise & Service Tax, Raipur.

4. The Commissioner (Appeals) has rejected the appeal for the reason that the mandatory requirement of pre-deposit under Section 35-F of the Central Excise Act, 1944 was not complied with by the assessee-Appellants.

5. During the course of arguments, Ms. Rinky Arora, learned counsel for the assessee-Appellants, submits that the entire pre-deposit has been made. When it is so, then we set aside the impugned order and remand the matter to the Commissioner (Appeals) to decide the issue *de novo* on merit, but by providing a reasonable opportunity to the assessee-Appellants to present their case with liberty to file additional evidence, if any, as per law.

6. In the result, appeal filed by the assessee-Appellants is allowed by way of remand.

(Dictated & pronounced in the open court)

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(V. PADMANABHAN)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT

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