O-330

CEXA/18/2017
IA No.GA/1/2017 (Old No.GA/1906/2017)

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (Central Excise)
ORIGINAL SIDE

M/S. TIRUPATI JUTE INDUSTRIES LTD.

-Versus-

COMMISSIONER OF CENTRAL EXXCISE & SERVICE TAX, KOLKATA-II, COMMISSIONERATE

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
And
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date :4th April, 2024

Appearance:
Mr. Arijit Chakraborty, Adv.
Mr. Nilotpal Chowdhury, Adv.
...for the appellant

Mr. Bhaskar Prasad Banerjee, Adv.
...for the respondent.

1. Case called out.
2. Heard Sri Arijit Chakraborty, learned counsel for the appellant and Sri Bhaskar Prasad Banerjee, learned standing counsel for the respondent and perused the impugned order.
3. This appeal has been filed praying to set aside the order dated 14.12.2016 in Excise Appeal No.76753 of 2016 passed by the Customs, Excise and

Service Tax Appellate Tribunal, East Regional Bench, Kolkata whereby the aforesaid appeal was dismissed by the Tribunal on the ground of non-compliance of mandatory requirement of pre-deposit @7.5% under Section 35F of the Central Excise Act, 1944.

4. Learned counsel for the appellant, on instruction, states that the appellant shall make pre-deposit within two months from today and submit proof thereof before the Tribunal and in that event the appeal of the appellant may be heard on by the Tribunal on merit. Learned counsel for the respondent has no objection to the aforesaid request of the learned counsel for the appellant.

5. In view of the aforesaid, the appeal (CEXA/18/2017) is allowed. The impugned order dated 14.12.2016 passed in Excise Appeal No.76753 of 2016 passed by the Customs, Excise and Service Tax Appellate Tribunal, East Regional Bench, Kolkata is hereby set aside. The appellant is directed to comply with the condition of pre-deposit under Section 35F of the Central Excise Act, 1944 within two weeks from today and submit proof of pre-deposit before the Tribunal. On making pre-deposit within the stipulated period as aforesaid and production of proof of pre-deposit before the Tribunal, the appeal of the appellant before the Tribunal shall stand restored to its original file and shall be decided by the Tribunal on merits in accordance with law.

6. In the event the appellant does not comply with this order by not making the pre-deposit within the stipulated period, then the Tribunal shall

dismiss the appeal of the appellant on the ground of non-compliance of condition of pre-condition under Section 35F of the Central Excise Act, 1944.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

As.