IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CENTRAL EXCISE APPEAL NO. 11 OF 2025

The Commissioner of CGST & Central
Excise, Navi Mumbai .. Appellant

Versus

Tenormac Enterprises Pvt Ltd,
Navi Mumbai .. Respondent

Mr.Mataprasad Sharma*, with Niyati Mankad, Priyanka Singh, Advocates for the Appellants.*

Mr. Prakash D. Shah, Senior Advocate*, with Mr. Jas Sanghavi, Mihir Mehta i/b PDS Legal, Advocates for the Respondent.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE: SEPTEMBER 24, 2025

P. C.

1. The above Appeal has been filed by the Commissioner of CGST & Central Excise Belapur Commissionerate taking exception to the order passed by the Customs, Excise and Service Tax Appellate Tribunal ("CESTAT") dated 7th July 2023. By this order, CESTAT held that the pre-deposit made by the Appellants from the electronic credit ledgers are in compliance to Section 35F of the Central Excise Act and the registration of the Appeals made by the CESTAT Registry is valid. The CESTAT, therefore, admitted the Appeals for hearing.

2. According to the Appellant-Revenue, the order of the CESTAT gives rise to the following substantial questions of law:-

(i) Whether under the facts and circumstances of the case the CESTAT has erred in holding that the pre-deposit made by the appellants from electronic credit ledgers are in compliance with Section 35F of the Central Excise Act, 1944 despite the fact that the CBIC has issued Circular No. 1070/3/2019/-CX dated 24.06.2019 and Instruction No. CBIC-240137/14/2022- Service Tax Section-CBEC dated 28.10.2022 specifically clarifying about payment of central excise and service tax and making pre-deposit after introduction of GST?

(ii) Whether under the facts and circumstances of the case CESTAT has erred in interpreting the Judgment of the Hon'ble Supreme Court in the case of Commissioner of C.Ex., Bangalore Vs Mysore Electrical 2006 (204) ELT 517 (SC) and by holding that a beneficial circular has to be applied retrospectively while an oppressive circular has to be applied prospectively?

(iii) Whether under the facts and circumstances of the case CESTAT has erred by not considering the judgment of the Hon'ble Supreme Court in the case of CIVIL APPEAL NO. 3752 OF 2023 in case of SREE SANKARACHARYA UNIVERSITY OF SANSKRIT & ORS vs DR. MANU & ANR. (SC) dated 16.05.2023 wherein the Hon'ble Supreme Court has decided that "If a statute is curative or merely clarificatory of the previous law, retrospective operation thereof may be permitted"?

3. We find that the questions of law as raised in the above Appeal are squarely covered by a decision of this Court in the case of the

Commissioner of CGST and Central Excise, Belapur v/s Sapphire Cable and Services Pvt Ltd reported in 2024(8) TMI 1403-Bombay High Court. In fact, what was challenged in this Appeal was the very same order which is the subject matter of the present Appeal. This Court, in paragraph 4, held that the order passed by the CESTAT correctly concluded that the Appeals filed by the Respondent herein before the CESTAT were validly instituted because the Circular dated 28th October 2022 relied upon by the Appellant/Revenue was subsequent in point of time to the Appeal filed by the Respondent before the CESTAT and the said Circular would operate only prospectively. Accordingly, the Appeal of the Revenue in the case of *Sapphire Cable and Services Pvt Ltd (supra)* was dismissed.

4. Considering these facts and circumstances, we are of the view that the present Appeal also does not warrant entertainment by this Court. We say this because, as mentioned earlier, the very same order that is challenged in the present Appeal, was the subject matter of the Appeal in the case of *Sapphire Cable and Services Pvt Ltd (supra)*. This apart, we find that under the provisions of the GST Act as well, this Court has consistently taken a view that for the purposes of entertaining the Appeal and making a pre-deposit, the Appellant can always utilize the electronic credit ledgers to comply with the said condition. This view has been taken in the case of

Oasis Realty v/s Union of India reported in 2023 (3) Centax 86 (Bom) as well as in the case of ***Navnit Motors Pvt Ltd v/s Commissioner of CGST & Central Excise (Appeals-III), Mumbai & Anr (Writ Petition No.2345 of 2025 decided on 14th July 2025).***

5. For all the aforesaid reasons, we do not find any error in the impugned order passed by the CESTAT, and hence does not give rise to any substantial question of law.

6. The Appeal is, therefore, dismissed. However, there shall be no order as to costs.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.] **[B. P. COLABAWALLA, J.]**

Aswale