CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD

REGIONAL BENCH – COURT NO. 03

Excise Appeal No. 12944 of 2018

[Arising out of Notification Order-V-CH-84-04-03-JORD-COMMR-1-2017-18 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

M/s Jord Engineers India Ltd ....**Appellant**
Plot No. 541-546, Ishwarpura (Asoj)
Baroda-Halol Highway,
Tal-Waghodia,
Vadodra, Gujarat

VERSUS

C.C.E. & S.T.-Vadodara-i .....**Respondent**
1st Floor, Central Excise Building,
Race Course Circle, Vadodara,
Gujarat-390007

APPEARANCE

Sh. Willingdon Christian, Advocate for the Appellant
Sh. G. Jha, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

FINAL ORDER NO. A/ 11455 /2019

DATE OF HEARING: 31.07.2019
DATE OF DECISION: 31.07.2019

RAMESH NAIR

The present appeal is directed against order dated 27.09.2018 passed by Commissioner CGST & CE Vadodara-I whereby the Ld. Commissioner (Appeals) has re-computed the interest amount as per the Cestat Order No. A/10938/2016 dated 01.09.2016.

2. Sh. Willingdon Christian Ld. Counsel appearing for the appellant made a detailed submission referring section 11A and various judgments which are as follows:

- Gujarat Narmada Fertilizers Co. Ltd 2012 (285) ELT 336 (Guj.)
- Hindustan Insecticides Ltd 2013 (297) ELT 332 (Del.)
- Whirlpool Ltd 2000 (119) ELT A177 (SC)
- Gujarat Narmada Fertilizers Co. Ltd 2013 (289) ELT 489 (T)

That in the given facts of the case, the interest liability is also time bar as the SCN was issued on 24.11.2009 whereas for the purpose of interest, the relevant date should be taken as date of duty payable which is from the January to March 2018 and if this date is taken then the SCN is time bar and no interest is payable.

3. Sh. G. Jha Ld. Superintendent (AR) appearing on behalf of the Revenue supporting the impugned order submits that the relevant date should be taken as per the period of interest payable according to which the interest for the normal period i.e. 1 year before date of SCN shall be applicable and for that period whatever interest amount arise will be payable by the appellant, therefore, Ld. Commissioner has rightly re-computed the interest amount and therefore, there is no infirmity in the impugned order.

4. Heard both the sides and perused the records. I find that the Ld. Commissioner has re-computed the interest for one year for normal period of 1 year suo-moto without giving any opportunity to the appellant regarding re-computation of the interest. Now the appellant have made detailed submission along with judgments according to which the issue is highly debatable that whether interest should be taken from the date of duty payable or some other date. In this position, I am of the considered view that the appellant should be given an opportunity to present their case, thereafter a reasoned order should be passed for re-computation of the interest.

5. Accordingly, I set aside the order dated 27.09.2018 passed by Commissioner and remand the matter to the Ld. Commissioner for passing afresh order after considering the submission to be made by the appellant and after giving opportunity of hearing.

6. appeal is allowed by way of remand to the adjudicating authority.

(Dictated & pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

Seema