Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Excise Appeal No. 10107 of 2020

(Arising out of OIA-VAD-EXCUS-001-APP-469-2019-20 dated 29/11/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

SHRI KRISHNA INDUSTRIES **.........Appellant**
Plot No. 95/96, Near Namdev Batta, Bhankhetar, Dhabi Road, Tal Jambusar
Bharuch
Bharuch, Gujarat

VERSUS

C.C.E. & S.T.-VADODARA-II **.........Respondent**
1st Floor... Room No.101,
New Central Excise Building,
Vadodara, Gujarat -390023

APPEARANCE:
None appeared for the Appellant
Shri R.P Parekh, Superintendent (AR) for the Respondent

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

Final Order No. A/ 10724 /2022

DATE OF HEARING: 23.06.2022
DATE OF DECISION: 23.06.2022

RAMESH NAIR

In the present appeal the appellant is seeking interest on the pre deposit of Rs 55 Lakhs made as per the stay order passed by this Tribunal and also the order of the Hon'ble High Court during pendency of appeal in this Tribunal. The appellant's main appeal has been allowed vide this Tribunal order No A/11030/2019 dated 28.06.2019. The department has sanctioned the refund of pre-deposit within 3 months from the date of this Tribunal's order. The claim of the appellant is that they should get interest from the date of deposit till the date of sanction of the refund.

2. When the matter was called out none appeared for the appellant. They waived personal hearing and submitted a written submission dated 21.06.2022 which is taken on record.

3. Shri J.A Patel, Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order. He submits that refund arose only after this Tribunal passed the order dropping the demand and from that date within 3 months refund was sanctioned therefore no interest was payable. He placed reliance on the following judgment:

- TATA IRON & STEEL COMPANY LIMITED VS. UNION OF INDIA- 2013 (295) ELT 526 (Jhar.)
- MRF LTD VS. COMMISSIONER OF TRADE AND TAXES – 2018 (19) GSTL 478 (Del.)

4. I have carefully considered the submission made by Learned AR and also the appellant's submission vide letter dated 21.06.2022 and perused the records. I find that in terms of Section 11 B in respect of the refund arise from any order the relevant dated is provided under 11 B Sub section (5) proviso clause B(ec) which reads as under :

> *" (B) "relevant date" means,—*
>
> *(a)..*
>
> *(b)..*
>
> *(c)..*
>
> *(d)..*
>
> *(e)..*
>
> *(ec) in case where the duty becomes refundable as a consequence of judgment, decree, order or direction of appellate authority, Appellate Tribunal or any court, the date of such judgment, decree, order or direction;"*

5. As per the above provision the refund arises only when the order is passed. In the present case there is no dispute that the refund arose after the Tribunal had passed the order dated 28.06.2019 and the revenue had granted the refund within 3 months from the date of the order. Accordingly, no interest accrued to the appellant.

6. Hence, the lower authority has rightly rejected the claim of interest from the date of deposit till the date of sanction of the refund. The impugned order is upheld, appeal is dismissed.

(Dictated & Pronounced in the open court)

RAMESH NAIR
MEMBER (JUDICIAL)

Geeta