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

REGIONAL BENCH- COURT NO. 3

Customs Appeal No. 10247 of 2020

(Arising out of OIA-MUN-CUSTM-000-APP-269-19-20 Dated-06/02/2020 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD)

INOX INDIA PVT LTD ....**Appellant**
K.P.Platina, 9th Floor, Race Course
Vadodara, Gujarat

VERSUS

C.C.-MUNDRA ....**Respondent**
Office Of The Principal Commissionerate Of Customs, Port User Buld.
Custom House Mundra, Mundra
Kutch, Gujarat-370421

APPEARANCE:
Shri. Dhaval K Shah, Advocate for the Appellant
Shri. Rajesh K Agarwal, Authorised Representative for the Respondent

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

Final Order No. A/ 11256 /2022

DATE OF HEARING:13.10.2022
DATE OF DECISION:13.10.2022

RAMESH NAIR

The brief facts of the case are that the appellant had re-imported goods vide Bill Of Entry No. 9711526 dated 16.05.2017 on payment of Custom Duty, Central Excise Duty forgone at the time of clearance of goods from factory with interest of Rs. 10,27,992/- and also surrender the drawback availed. The appellant claimed refund on the ground that they are eligible for exemption under Serial 1D of Notification No. 94/96-Cus dated 16.12.1996 and not liable for interest payment on the Central Excise Duty forgone i.e. Rs. 252,492/- and claimed refund of the same. The refund has been rejected by the 1st appellate authority by Order-In-Appeal on the ground that the Customs at the time of re-exportation of the goods had collected only the Central Excise Duty forgone of Rs. 7,75,000/- and interest thereon as per Serial No. 1D of Notification No. 94/96-Cus and interest of

Rs. 2,52,492.00 has been collected on CVD from the date of Central Excise Duty forgone as the accrual of interest is automatically. Being aggrieved by the Order-In-Original appellant filed appeal before the Commissioner (Appeals) who has rejected the appeal accepting the finding of the Order-In-Original, therefore, the present appeal filed by the appellant seeking refund of interest of Rs. 2,52,492.00 paid on CVD.

2. Shri. Dhval K Shah, Learned Counsel appearing on behalf of the appellant submits that the CVD paid on re-import of the goods at the time of the clearance of such re-imported goods and duty was paid in terms of Notification No. 94/96-Cus. In this case the duty is payable at the time of re-import of the goods, therefore, the interest collected from the date of initial export of the goods is not payable, therefore, interest so collected is clearly refundable to the appellant.

3. Shri. Rajesh K Agarwal, Learned Superintendent (Authorized Representative) appearing on behalf of the revenue reiterates the finding of the impugned order.

4. I have carefully considered the submission made by both the sides and perused the record. The facts is not under dispute that the interest of Rs. 2,52,492.00 was collected on the duty paid on re-import of goods and cleared in terms of Notification No. 94/96-Cus. As per both the lower authorities the interest was rightly payable on the ground that the duty forgone is due from the date of export. I find that when the goods is exported that there is no question of demand of any Excise Duty. In the present case the goods were re-imported. The re-import is nothing but treated as fresh import of goods and liable for Custom Duty as per Customs Tariff Act. However, by virtue of Notification No. 94/96-Cus on the re-import of the exported goods the exemption from Customs Duty at concessional rate is granted. As per the said Notification the assessee is required to pay the Custom Duty which is equivalent to Central Excise Duty. The said duty is

payable at the time of clearance of re-imported goods. Therefore, that the said duty on re-importation is not due prior to the date of clearance on re-import of the gods, therefore, there is no question of any interest for the earlier period i.e. period prior to re-import of the goods. On re-import of goods it is not duty which was forgone at the time of export of the goods but it is a fresh levy on re-import of the goods, therefore, the period for date of export till the re-import of the exported goods is not relevant to the goods re-imported. Consequently, no interest is chargeable for the period from the date of export till the date of re-import of the exported goods.

5. Hence, the appellant have rightly claimed the refund of interest which is legally due to them. Accordingly, I set aside the impugned order and allow the appeal.

(Operative option Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

PRACHI