

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

REGIONAL BENCH- COURT NO.1

**Excise Appeal No. 11405 of 2025-SM
(E/MISC/10641/2025)**

(Arising out of Order in Appeal CCESA-SRT-APPEAL-RHM-83-2025-26 Dated 18/07/2025 passed by the Commissioner, Central GST & Central Excise (Appeals), Surat)

SPRING MERCHANDISER PVT LTD

Survey No. 170/1/(12), Shed No. 03,
Panchal Udhyog Nagar, Bhimpore-396210

VERSUS

**COMMISSIONER OF CGST &
CENTRAL EXCISE - DAMAN**

Customs and Service Tax, Daman,
5th Floor, GST Bhavan, RCP Compound,
Vapi, Valsad, Gujarat- 396191

.....Appellant

.....Respondent

APPEARANCE:

Shri Samyak Jain, Advocate appeared for the Appellant

Smt. Sunita Menon, Superintendent(AR) appeared for the Respondent

CORAM:

HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

FINAL ORDER NO. 10311/2026

DATE OF HEARING :23.04.2026

DATE OF DECISION:24.04.2026

SOMESH ARORA

1. The appellants are aggrieved by the decision of the Commissioner (Appeals), who, while permitting the refund of ₹15,00,000/- deposited by them during the period from August 2005 to October 2005—pursuant to proceedings, which ultimately concluded in their favour—restricted the grant of interest. The Commissioner (Appeals) treated only an amount of ₹1,18,073/- (being 7.5% of the confirmed demand) as a pre-deposit under Section 35F of the Central Excise Act and allowed interest only on this limited amount. Consequently, interest of merely ₹4,794/- was granted, without extending interest on the entire refunded amount of ₹15,00,000/- for the period from the date of deposit till the date of refund. Further, no interest on the delayed payment of interest (i.e., interest on interest) was allowed. The relevant portion of the impugned order is reproduced below:-

"6. From the facts narrated above, it is observed that the refund sanctioning authority/adjudicating authority while granting refund of Rs.15,00,000/- vide impugned order, relied on the statutory provisions regarding interest on refund amount and date of refund application. The appellant has contended that they are eligible for interest @12% p.a. as mentioned in judicial pronouncement in case of *Indo Rubber and Plastic Works Versus Commr. of Customs, New Delhi*, *PR. Commr of CGST, New Delhi Versus Emmar Mgf. Construction Pvt. Ltd.* In this regard, I observe that the Central Excise/Service Tax authorities can only process the refund claim under provisions of Central Excise Act/Finance Act and the departmental authorities have no jurisdiction to go beyond the provisions made under the Act and the matter relating to interest on delayed refunds, as in the instant case, has to be dealt with under the provisions of Section 11BB of the Central Excise Act, 1944 (CEA), which are reproduced as under:

Section 11BB. Interest on delayed refunds,-

If any duty ordered to be refunded under sub-section (2) of section 11B to any applicant is not refunded within three months from the date of receipt of application under sub section (2) of that section there shall be paid to that applicant interest of such rate, not below five per cent and not exceeding thirty per cent per annum as is for the time being fixed by the Central Government, by Notification in the Official Gazette, on such duty from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty

Provided that where any duty ordered to be refunded under sub section (2) of section 11B in respect of on application under sub-section (1) of that section made before the date on which the Finance Bill, 1995 receives the assent of the President, is not refunded within three months from such date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of refund of such duty.

Explanation.- Where any order of refund is made by the Commissioner (Appeals) Appellate Tribunal National Tax Tribunal or any court against an order of the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, under sub-section (2) of section 11B, the order passed by the Commissioner (Appeals), Appellate Tribunal, National Tax Tribunal or, as the case may be, by the court shall be deemed to be an order passed under the said sub-section (2) for the purposes of this section.

From the plain reading of the above provision, I find that Section 11BB of CEA provides for both the rate of interest as well as period of interest. The rate of interest is as fixed by the central government by notification in official gazette and the period of interest is, from the date immediately after the expiry of three (03) months from the date of receipt of application for refund claim, to the date of refund.

7. In view of above, I also find that the Sanctioning authority and Commissioner (Appeals) are creature of a statute and cannot go beyond the words of a statute. The departmental officer is bound to follow the statutory provision strictly and cannot go beyond the words of a statute. Thus, the appellant's request of granting interest @12 per annum is not maintainable and interest cannot be granted more than the rate prescribed under the statute i.e. Central Excise Act, 1944. I find that the rate of interest is statutorily prescribed under Section 11BB of the Central Excise Act, 1944 read with relevant Notification issued there-under in this regard, according to which the interest shall be paid to that applicant at such rate, not below five per cent and not exceeding thirty percent per annum as is for the time being fixed by the

Central Government by Notification in the Official Gazette In case of Central Excise cases the rate of 6% per annum was fixed vide Notification No 24/2014-CE(NT) dated 12.08 2014. Therefore, the departmental officer is bound to follow the statutory provision strictly and therefore, no interest more than 6% p.a can be granted. Thus in the instant case, I hold that the Commissioner (appeals) being a creature of a statute of the Central Excise Act, 1994 cannot decide the rate of interest out of the statutory provisions and cannot decide anything beyond the provisions of the statute of the Central Excise Act, 1994 Further, as regards the period of interest, I find that Section 11BB of the CEA provides for payment of interest from, the date immediately after the expiry of three (03) months from the date of receipt of application for refund claim, to the date of refund.

8. From the above observations and clarification given by the Board, it is evident that the Board consistently maintained that statutory interest commences from the date of non-payment of refund within three months from the date of receipt of application under Section 11B(1) of the Act, and not on the expiry of the said period from the date on which order of refund is made. It is further noticed that law held by the Hon'ble Apex Court in case of Ranbaxy Laboratories Ltd 2011 (273) ELT 3 (SC) has consistently been followed in recent decisions including that in case of Commissioner of Customs Ludhiana Vs Oswal Woolen Mills Ltd. 2023 (385)733 ELT (tri-Chd) as well by the jurisdictional bench of the Hon'ble tribunal in case of Bombardier transportation India Pvt. Ltd. V/s Commissioner of C. Ex & ST, Vadodara-II vide 2023(385) ELT-139 (Tri-Ahmd) Thus, following the ratio laid down by the Hon'ble Supreme Court in Ranbaxy case as well decision of the CESTAT following the ratio and the clarification given by the Board in its circular dated 01.10.2002 and relevant notification, I hold that the appellant's are entitled to interest at the prescribed rate from the date immediately after the expiry of three (03) months from the date of receipt of application for refund claim till the date of payment of refund of principal amount, in view of the provisions of Section 11BB of the Central Excise Act 1944

9. I have gone through the case laws cited by the appellant, it is seen that the same pertains to refund of service tax/duty paid by the respective appellants deposited during the period of investigations, on account of dropping of demand of service tax/duty liability. The facts and circumstances of the present case are different from the case laws cited by them. I find that the subject matter in the present case is related to the wrong avilment of Cenvat credit of inputs on account of use of inputs for manufacturing of goods which were exempted from payment of central excise duty Hence, the case law cited by the appellant are not squarely applicable from the four corners in the instant case, as held by Hon'ble Apex Court in case of COLLECTOR OF C EX, CALCUTTA Versus ALNOORI TOBACCO PRODUCTS-2004 (170) E.LT 135 (S.C.) in Civil Appeal Nos. 4502-4503 of 1998, decided on 21-7-2004. Where the Hon'ble Court at para-14 held that:

14. The following words of Lord Denning in the matter of applying precedents have become focus

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to

decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

10. Without prejudice to above, it is noticed that Commissioner (Appeal) vide its order dated 08.01.2025 allowed the appeal filed by the appellant. In view of this, it is clear that order of the Commissioner (Appeal) was for granting the refund as per the law. It was incumbent and mandatory for the lower authority, as the doctrine of judicial discipline as well, to grant interest on due refund amount at the rate(s) prescribed from time to time. Further, I find that Commissioner (Appeal) vide order dated 08.01.2025, held the subject matter in appellants favour and accordingly the application of refund claim filed by the appellant was sanctioned by the competent authority on 14.02.2025, which is well before the expiry of three (03) months from the date of application."

2. The Learned Authorised Representative (AR) justified the order of the Commissioner (Appeals) and specifically contended that the appellants are not entitled to any interest on interest, as claimed by them.

3. The Learned Advocate, in support of the appellants' case, relied upon the following judgments:

- In Omjai Bhavani Silk Mills (P) Ltd. Vs. C.C.E., Cus. & S.T., Hyderabad, reported in 2009 (243) E.L.T. 560 (Tri. - Bang.), wherein, it was held that any amount paid during investigation does not partake the character of "duty" and, therefore, is not governed by the provisions of Section 11BB of the Central Excise Act.
- In Sushitex Exports (India) Vs. Union of India, reported in 2022 (380) E.L.T. 245 (Bom.), the Hon'ble High Court held that where an amount deposited during investigation is retained for an inordinately long period without justification, equity demands that the State must refund the principal along with interest from the date of such deposit, as compensation for deprivation of funds.
- In Indo Rubber and Plastic Works Vs. Commissioner of Customs, New Delhi, reported in 2020 (373) E.L.T. 250 (Tri. - Del.), the Tribunal held

that any amount deposited during investigation assumes the character of a pre-deposit ipso facto, and upon success in appeal, the appellant is entitled to refund of the said amount along with applicable interest.

- In *Parle Agro Pvt. Ltd. Vs. Commissioner, CGST, Noida*, reported in 2022 (380) E.L.T. 219 (Tri. - All.), interest at the rate of 12% per annum was granted under similar circumstances.
- In *Raj Kumar Batra Vs. Commissioner of Customs (Preventive)*, reported in 2024 (2) TMI 1167 (Del.), it was held that the refund must be granted on the entire deposited amount along with interest, not merely as per statutory provisions but on equitable considerations.
- In *Eastern Coils Private Limited Vs. Commissioner of Central Excise, Kolkata-I*, reported in 2003 (153) E.L.T. 290 (Cal.), the Hon'ble High Court, in similar circumstances, allowed interest at the rate of 18% per annum on the principal amount of pre-deposit (refer Para 14).

4. The Learned Authorised Representative (AR), on the other hand, relied upon the provisions of Section 11BB of the Central Excise Act to justify the grant of interest at the rate of 6%. She further placed reliance on the decision of the Larger Bench of the Hon'ble Supreme Court in *Commissioner of Income Tax, Gujarat Vs. Gujarat Fluoro Chemicals*, reported in 2013 (10) TMI 117 (S.C.), wherein, upon consideration of the earlier judgment in *Sandvik Asia Limited Vs. Commissioner of Income Tax & Ors.*, reported in 2006 (1) TMI 55 (S.C.), it was held that only such interest as is specifically provided under the statute can be claimed by an assessee from the Revenue, and no additional interest on such statutory interest is admissible. Accordingly, the Learned AR also emphasized that the appellants are not entitled to claim "interest on interest" and reiterated the findings of the lower authorities.

5. This Court has considered the rival submissions and finds that the issue is no longer res integra. The matter already stands decided by this Court in

KLJ Plasticizers Ltd. Vs. Commissioner of Customs, Kandla, vide Final Order No. 11077/2025 dated 20.11.2025, which has subsequently been followed in Patel Labour Contractors Pvt. Limited Vs. Commissioner of Central Excise, Ahmedabad-I, vide Final Order No. 10008/2026 dated 12.01.2026. The relevant portion of the decision in KLJ Plasticizers Ltd. pertaining to the issue at hand is reproduced hereinbelow:

"7. This point of emphasis is that the need to grant interest as well as quantum has become established at the level of Hon'ble Supreme Court as well as various High Court and same deserves to be followed without reservations or getting into the question as to whether same was initially granted in equity jurisdiction or on the basis of statutory provisions. The appellants stated that the consistent legal approach of the High Courts and Supreme Court allowing interest even in the absence of provisions and validated by this Tribunal cannot be and should not be ignored simply on the basis of lack of statutory provisions when the question involves compensation for usage of Revenue deposits by the Government.

8. This court finds that when a decision has been consistently followed even if it was initially delivered in Writ jurisdiction or was embedded to a legal principle of doctrine of compensation for deposits retained. Consistency of the same having been followed at various fora including the Divisional Benches of the Tribunal, various High Courts makes the same become a judicial precedent worthy to be followed, even in the absence of statutory provision. This court finds that the decision of Churchit International vs Commissioner of Customs-Exports, New Delhi as reported in 2025-TIOL-520-CCE-Del is a well reasoned decision which has taken note of the decision of Hon'ble Supreme Court inter alia, in the matter of Kuil Fireworks Industrial reported as 1997 (95) ELT 3 (SC) wherein Hon'ble Supreme Court ordered pre-deposit made by the party to be refunded with 12% interest. Same has also been followed in Parle Agro and various other decisions as listed in the body of the findings of decision of Churchit International (supra). This court therefore, is inclined to follow the same and directs that interest shall be paid on the deposit made of 5 Crore which has since been refunded by the department. Such interest shall be calculated @ 12% from the date of making the deposit till the date of repayment. Appeal allowed in above terms."

5.1 The reasoning in the aforesaid decisions is based on a detailed consideration and analysis of the relevant case laws on the issue, culminating in the conclusions drawn therein. Further, in the case of Patel Labour Contractors Pvt. Limited, the conclusions have been recorded in paras 5 to 5.4, which are reproduced hereinbelow:

5. I have heard the learned Chartered Accountant for the appellant and learned AR for the department and perused the record. In M/s. Fujikawa Power and M/s. Kenzo International vs. CCE & ST, Chandigarh – 2019 (11) TMI 1997 – CESTAT Chandigarh, the CESTAT Chandigarh has relied upon the law laid down by Hon'ble Apex Court in the case of Sandvik Asia Limited (supra). The Tribunal has quoted para 45 of the judgment delivered by Hon'ble Apex Court in said case which is being reproduced:-

"45. The facts and the law referred to in paragraph (supra) would clearly go to show that the appellant was undisputably entitled to interest under Sections 214 and 244 of the Act as held by the various High Courts and also of this Court. In the instant case, the appellant's money had been unjustifiably withheld by the Department for 17 years without any rhyme or reason. The interest was paid only at the instance and at the intervention of this Court in Civil Appeal No. 1887 of 1992 dated 30-4-1997. Interest on delayed payment of refund was not paid to the appellant on 27-3-1981 and 30-4-1986 due to the erroneous view that had been taken by the officials of the respondents. Interest on refund was granted to the appellant after a substantial lapse of time and hence it should be entitled to compensation for this period of delay. The High Court has failed to appreciate that while charging interest from the assessees, the Department first adjusts the amount paid towards interest so that the principal amount of tax payable remain outstanding and they are entitled to charge interest till the entire outstanding is paid. But when it comes to granting of interest on refund of taxes, the refunds are first adjusted towards the taxes and then the balance towards interest. Hence as per the stand that the Department takes, they are liable to pay interest only up to the date of refund of tax while they take the benefit of assessee's funds by delaying the payment of interest on refunds without incurring any further liability to pay interest. This stand taken by the respondents is discriminatory in nature and thereby causing great prejudice to the lakhs and lakhs of assessees. Very large number of assessees are adversely affected inasmuch as the Income Tax Department can now simply refuse to pay to the assessees amounts of interest lawfully and admittedly due to that as has happened in the instant case. It is a case of the appellant as set out above in the instant case for the assessment year 1978-79, it has been deprived of an amount of Rs. 40 lakhs for no fault of its own and exclusively because of the admittedly unlawful actions of the Income Tax Department for periods ranging up to 17 years without any compensation whatsoever from the Department. Such actions and consequences, in our opinion, seriously affected the administration of justice and the rule of law."

Relying upon the law laid down by Hon'ble Apex Court, the Tribunal has observed that as the Hon'ble Apex Court answered the issue holding that the assessee is entitled to claim interest from the date of payment of initial amount till the date of its refund, therefore, the appellants, in the instant case, are entitled to claim interest on delayed payment of amount from the date of its deposition till its realization.

5.2 The interest on the said delayed refund is also payable at the rate of 12% as held by Hon'ble Kerala High Court in the case of Sony Pictures Networks India Pvt. Limited - 2017 (353) ELT 179 (Kerala). The relevant para of the judgment is reproduced below:-

"14. Now, the sole question remains to be considered is what is the nature of interest that the petitioner is entitled to get. As discussed above in the judgment Commissioner of Central Excise v. ITC (supra), the Apex Court confined the interest to 12% and further held that any judgment/decision of any High Court taking contrary view, will be no longer good law. The said judgment is rendered, in my considered opinion under similar circumstances. So also in Kuil Fire Works Industries v. Collector Central of Excise [1997 (95) E.L.T. 3 (S.C.)], the pre-deposit made by the assessee was directed to be returned to him with 12% interest. I have also come across the judgment of the Calcutta High Court in Madura Coats Pvt. Ltd. v. Commissioner of C. Ex., Kolkata-IV [2012 (285) E.L.T. 188 (Cal.)], wherein the peremptory directions of the Apex Court in the judgment of ITC Ltd. (supra) was considered and ordered 12% interest, and further held that when the High Court directed the respondents to pay interest to the appellant in terms of the circular dated 8-12-2004 on the pre-deposit of the delayed refund within two months, it has to be construed that, the Court meant the rate of interest which was awarded by the Supreme Court in the case of Commissioner of Central Excise v. ITC Ltd.,

which was the rate quantified by the Supreme Court in the absence of any statutory provisions in the Act in question. Even though various other judgments of various High Courts and the various Tribunals was brought to my notice awarding 15% interest, in view of the directions contained in the judgment of the Apex Court in Commissioner of Central Excise v. ITC Ltd. (supra) rate of interest is to be confined to 12%. I am also bound to follow the same. Therefore, the interest that is liable to be paid by the respondents as per the directions of this Court in Ext. P12 judgment is fixed at 12% per annum."

5.3 The learned Chartered Accountant for the appellant also cited the order passed by CESTAT Chandigarh in the case of Riba Textiles Limited vs. Commissioner of CE & ST, Panchkula – 2020 (2) TMI 602 – CESTAT Chandigarh and the judgment delivered by Hon'ble P & H High Court in CCE, Panchkula vs. Riba Textiles Limited – 2022 (3) TMI 693 (P&H). He has also relied upon the order passed by CESTAT New Delhi in the case of M/s. Indore Treasure Market City Pvt. Limited vs. Commissioner of CGST & Central Excise, Indore – 2024 (2) TMI 372 – CESTAT New Delhi.

5.4 I am of the view that this Tribunal is bound by the law laid down by Hon'ble Supreme Court in Sandvik Asia Limited vs. Commissioner of Income Tax & Ors. (supra). Therefore, I hold that the appellant is entitled to claim interest on the amount of deposit from the date of deposit till its refund at the rate of 12% per annum as held by Hon'ble Kerala High Court in the case of Sony Pictures Networks India Pvt. Limited (supra).

5.2 Accordingly, this Court is of the considered view that the appellants are entitled to interest on the deposited amount from the date of deposit till the date of actual refund, at the rate of 12% per annum. However, the same shall be reduced to the extent of interest, if any, already paid, including on the amount of ₹1,18,073/-. It is further clarified that no interest on interest shall be admissible, as rightly contended by the Learned Authorised Representative for the Department. The original adjudicating authority is, therefore, directed to compute and grant interest at the rate of 12% per annum from the date of deposit made during the course of investigation till the date of actual refund of the said amount and reduce the same by paid amount of Rs.4,794/-.

6. Accordingly, the appeal is allowed to the above extent. The Miscellaneous Application also stands disposed of.

(Pronounced in the open court on 24.04.2026)

(SOMESH ARORA)
MEMBER (JUDICIAL)