CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>BANGALORE</u>

REGIONAL BENCH - COURT NO.1

Central Excise Appeal No. 997 of 2010-DB

(Arising out of Order-in-Appeal No. 54/2010 dt. 28/10/2010 passed by Commissioner of Central Excise (Appeals), Mangalore)

Commissioner of Central Excise,
S1 &S2, Vinaya Marga,
Siddartha Nagar, Mysore – 570 011.

Appellant(s)

Versus

M/s. TVS Motor Company Limited,
P.B. No.01, Bythahalli, Kadkola Post,
Mysore – 571 311.

Respondent(s)

AND

Central Excise Appeal No. 998 of 2010-DB

(Arising out of Order-in-Appeal No. 54/2010 dt. 28/10/2010 passed by Commissioner of Central Excise (Appeals), Mangalore)

Commissioner of Central Excise,
S1 &S2, Vinaya Marga,
Siddartha Nagar, Mysore – 570 011.

Appellant(s)

Versus

M/s. TVS Motor Company Limited,
P.B. No.01, Bythahalli, Kadkola Post,
Mysore – 571 311.

Respondent(s)

<u>Appearance:</u>

Mr. H. Jayathirtha, Superintendent(AR) for the Appellant

Mr. Syed Peeran, Advocate for the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON’BLE MRS. R. BHAGYA DEVI, MEMBER(TECHNICAL)

Final Order No. 20095-20096 / 2024

Date of Hearing: 07/02/2024
Date of Decision: 07/02/2024

Per : DR. D.M.MISRA

These two appeals are filed by the Revenue against common Order-in-Appeal No.54/2010 dt. 28/10/2010. The short issue involved in the present appeals is related to eligibility to interest on finalisation of provisional assessment under Rule 7 of the Central Excise Rules, 2002. The learned Commissioner(Appeals) in the impugned order held that the due date for recovery / refund of interest under Rule 7(5) of the Central Excise Rules read with Section 11BB, be computed from the first day of the month succeeding the month for which such amount is determined and not from the date of finalisation of provisional assessment.

2. Learned AR for the Revenue fairly submits that the proceedings initiated against the respondent subsequently decided in favour of the respondent by sanctioning the refund of interest from the first day of the month succeeding the month for which such amount is determined and not from the date of finalisation of provisional assessment as held by the learned Commissioner(Appeals). Learned advocate for the respondent submits that in view of the judgment of the Hon'ble Supreme Court in the case of ***Bharat Heavy Electricals Ltd. Vs. CC&CE, Kanpur***

[2022(382) ELT 161 (SC)], the issue is no more res integra and decided in favour of the assessee.

3. In view of the above submissions, the Revenue's appeals are devoid of merit and accordingly rejected.

(Order pronounced and dictated in open court)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER(TECHNICAL)

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