CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE

Appeal(s) Involved:

C/669/2007-DB

[Arising out of Order-in-Appeal No. 94/2007 dated 31/07/2007 passed by the Commissioner of Customs, Bangalore]

Verifone India Pvt. Ltd.
No.3, Classique Mansion, 6th Cross,
HAL 2nd Stage
Bangalore – 560 008
Karnataka

Appellant(s)

Versus

Commissioner of Customs Bangalore
C.R. Building, Queens Road
Bangalore – 560 001
Karnataka

Respondent(s)

Appearance:

Shri N. Anand, Advocate
152, Race Course Road,
Bangalore – 560 001
Karnataka

For the Appellant

Shri Pakshirajan, Assistant Commissioner (AR)

For the Respondent

Date of Hearing: 06/02/2018
Date of Decision: 06/02/2018

CORAM:
HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. V. PADMANABHAN, TECHNICAL MEMBER

Final Order No. 20244 / 2018

Per: V. PADMANABHAN

The present appeal has been filed against the Order-in-Appeal No. 94/2007 dated 31.07.2007. The appellant imported various goods without payment of duty under Notification No. 13/81 Cus. dated 09.02.1981 as amended under the EOU scheme. There was a dispute with the Department regarding the entitlement of the imported capital goods for duty free benefit. In separate proceedings, it was held that the appellant was liable to payment of customs duty on such capital goods imported but the amount of duty availed by the appellant was the subject matter of separate dispute which got settled in favour of the appellant vide Order-in-Appeal No. 110/2005 dated 19.12.2005. During the pendency of such dispute, the appellant had paid the disputed customs duty along with interest payable thereon which was subsequently sought as refund from the Department. The original authority after consideration of the refund application refunded certain amount of duty as well as the interest paid by the appellant. When the issue was carried out before the Commissioner (Appeals) he upheld the same but in the present appeal the submission of the appellant is that such refund paid by the lower authorities was given to them after delay and hence they will be entitled to payment of interest for such delayed refund amounts of customs duty and interest.

2. With the above background, we heard Mr. N. Anand, learned counsel for the appellant as well as Mr. Pakshirajan, the learned DR. The submissions of the learned counsel for the appellant was that in terms of Section 27A of the Customs Act, 1962, the appellant will be entitled to payment of interest for refund which is delayed beyond the period of three months from the date of filing of such refund claim. This proposition also finds support in the decision of the Hon'ble Supreme Court in the case of ***Ranbaxy Laboratories Ltd. V. Union of India - 2011 (273) E.L.T. 3***

(S.C). Similar views have been expressed by the Apex Court in the case of ***UOI V. Hamdard (Waqf) Laboratories - 2016 (333) E.L.T. 193 (SC).***

3. Learned DR justified the impugned order. He submits that the delay in the sanction of the refund applied for by the appellant was because the appellant did not submit all the documents necessary to support their claim. He further submitted that after the submission of the supporting documents, the refund has been sanctioned within a period of three months and accordingly he justified that no interest will be payable to the appellant.

4. We have considered the submissions made by both sides and perused the records.

4.1. The primary dispute which resulted in excess payment of duty by the appellant as well as refund thereof has since been settled in favour of the appellant. Accordingly, the excess duty as well as the interest paid by the appellant has been refunded to them after the issue of show-cause notice and adjudication. The issue which is before us is only limited to the demand for payment of interest on such refund given to the appellant, in terms of Section 27A of the Customs Act, 1962.

4.2. We have perused the decision of the Apex Court cited by the appellant. We find that there is no dispute on the proposition that refund which is sanctioned beyond the period of three months from the date of receipt of application will have to be paid along with interest. However, question in the present case is when was the refund claim submitted. We find that the impugned order has recorded that when the refund claim was submitted by the appellant, if was not complete in all respects and further supporting documents were asked for by the Department and after receipt of all supporting documents, we find that the refund has been sanctioned within a period of three months. So the liability of the Department to pay interest in terms of Section 27A is not attracted in this case.

5. In view of the above, we dismiss the appeal filed by the appellant.

(Order Dictated in Open Court on **06/02/2018**)

(V. PADMANABHAN)
TECHNICAL MEMBER

(JUSTICE (DR.) SATISH CHANDRA)
PRESIDENT

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