CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

[E – Hearing]
Excise Appeal No. 60160 of 2023

[Arising out of Order-in-Appeal No. 53/CE/CGST-APPEAL-GURUGRAM/SKS/2022-23 dated 30.11.2023 passed by the Commissioner (Appeals), Gurugram, Haryana]

M/s Shree Inderjit Matta **......Appellant**
S/o Late Atam Chand Matta, Siena-901, Omaxe Heights, Sector 86, Faridabad Haryana 121002

VERSUS

Commissioner of CGST, Faridabad **......Respondent**
5th Floor, Mudit Square, Plot No. 24, Sector 32, Gurugram Haryana 122001

APPEARANCE:

Shri D.K. Nayyar, Advocate for the Appellant

Shri Shivam Syal, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

FINAL ORDER NO. 60100/2025

DATE OF HEARING: 28.11.2025
DATE OF DECISION: 24.01.2025

S.S.GARG:

The present appeal is directed against the impugned order dated 30.11.2022 passed by the Commissioner (Appeals) whereby the Commissioner (Appeals) has allowed the interest @ 6% instead of 12% as claimed by the appellant.

2. Briefly the facts of the present case are that the appellant is engaged in the manufacturing and supplying of parts of painting system and paint shot falling under the ETH 84179000 of the First Schedule of the Central Excise Tariff Act, 1985, and was also

registered with the Service Tax Department for providing maintenance and repair services & Work Contract Services.

2.2 During investigation, it was found that the appellant has charged and collected the Central Excise duty on their final product from their customers but had not deposited the same to the Govt. Exchequer as well as they had not filed their Excise Returns i.e., ER-1 since March 2014. Accordingly, Show Cause Notice dated 16.03.2018 was issued to the party for demand and recovery of Central Excise duty amounting to Rs. 15,61,272/- for the period March 2014 to November 2015 along with applicable interest and penalty. The said show cause notice was adjudicated by the Assistant Commissioner, Faridabad vide Order in- Original dated 19.03.2021, wherein the demand raised in the show cause notice was confirmed along with applicable interest and penalty against the legal heir of one of the partners of the firm. Further, the adjudicating authority had also appropriated duty amount of Rs. 15,08,086/- and interest of Rs. 3,06,398/- already collected from the appellant during investigation. Aggrieved by the Order-in-Original, the appellant filed appeal before the Commissioner (Appeals), Gurugram and the Commissioner (Appeals) vide Order dated 26.10.2021 set aside the Order-in-Original and allowed the appeal of the appellant.

2.3 Consequent upon the said order, the appellant had filed the refund claim along with interest @ 12% for the amount deposited during the course of investigation. The Assistant Commissioner, Vide Order dated 18.05.2022 sanctioned an amount of Rs. 19,00,088/- including Interest @ 6% to the appellant and the said interest @6% was allowed from the date of filling appeal till the date of payment of the amount deposited. Aggrieved by the said OIO dated 18.05.2022, the appellant preferred the appeal before the Commissioner and the Commissioner (Appeals) vide the impugned order dated 30.11.2022 though sanctioned refund from date of deposit till date of refund but has incorrectly interpreted the decision of Hon'ble Supreme Court in case of UNION OF INDIA & ORS. V/s M/S. WILLOWOOD CHEMICALS PVT. LTD. & ANR. (2022 Liv Law (SC) 398) and UNION OF INDIA & ORS. V/s M/S. SARAF NATURAL STONE & ANR. (2022 Liv Law (SC) 398), and allowed the interest @6% per annum as sanctioned by the adjudicating authority. Hence, the present appeal.

3. Heard both the parties and perused the record.

4. Ld. Counsel for the appellant submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts and the law. He further submits that the present appeal pertains to refund of interest on the amount collected during investigation and does not pertain to interest on delayed refund payable under Section 11BB of the Central Excise Act, 1944 or interest on refund of amount paid for admission of appeal under Section 35F of the Central Excise Act, 1944. He also submits that the statute is silent about the rate of interest for the amount deposited during the course of investigations, hence, would attract award of interest at a reasonable rate on equitable grounds as held by Hon’ble Supreme court in the case of Union of India Vs. Parmal Singh reported in 2009 1 SCC 618. He further submits that the Commissioner (Appeals) has wrongly applied the decision of the Hon’ble Supreme Court in the case of M/s Willowood Chemicals Pvt. Ltd & M/s Saraf Natural Stone & Anr. Wherein it has been held

"'wherever a statute specifies or regulates the interest, the interest will be payable in terms of the provisions of the statute, wherever a statute, on the other hand, is silent about the rate of interest and there is no express bar for payment of interest, any delay in paying the compensation or the amounts due, would attract award of interest at a reasonable rate on equitable grounds. He further submits that the said decision relates to refund under Section 56 of the CGST Act which prescribed rate of interest @ 6% and accordingly, Honble Apex Court sanctioned only 6% interest whereas in the present case refund pertain to amount collected during investigation and the rate of interest on the same is not prescribed in the statute. He further submits that the Tribunal and the High Court and the Supreme Court has consistently held that any amount deposited during investigation should be refunded; in case the assessee succeeds at the interest rate of 12% from the date of deposit till the amount is refunded. In support of his submissions, He relied upon the following decisions:

- *Decision of Hon'ble Supreme Court in the case of* ***CCE, Hyderabad vs. ITC Ltd. 2004 (12) TMI 90- Supreme Court****.*
- *Decision of Hon'ble Bombay High Court in the case of* ***Nelco Limited v. Union of India, 2002 (144) E.L.T. 56 (Bom.).***
- *Decision of Hon'ble Kerala High Court in the case of* ***Sony Picture Network India Pvt. Ltd vs. UOI 2017 (5) TMI 864 - Kerala High Court.***
- *Decision of Hon'ble Gujrat High Court in the case of Commissioner of Customs (Preventive) vs.* ***Ghaziabad Ship Breakers Pvt. Ltd, 2010 (10) TMI 151-Gujrat High Court.***

- *Decision of Hon'ble CESTAT, Ahmedabad in the case of* ***Ghaziabad Ship Breakers Pvt. Ltd. vs. Commissioner of Customs 2010 (9) TMI 400 CESTAT, Ahmedabad.***

- *Decision of Hon'ble CESTAT, Delhi in the case of* ***Vikas Sabharwal Proprietor v. Commissioner of Central Tax & GST, New Delhi, 2023 (4) TMI 5CESTAT New Delhi.***

- *Decision of Hon'ble CESTAT, Allahabad in the case of* ***Shri Rathi Steel Ltd. vs. Commissioner of CGST, Noida 2024 (6) TMI 377 CESTAT Allahabad.***

- *Decision of Hon'ble CESTAT, New Delhi in the case of* ***Kukreti Steels Ltd. vs. Commissioner of CGST, Dehradun 2021 (8) TMI 751-CESTAT New Delhi.***

- *Decision of Hon'ble CESTAT, New Delhi in the case of* ***Indore Treasure Market city Pvt. Ltd. vs. Commissioner of CGST & CE, Indore 2024 (2) TMI 372-CESTAT New Delhi.***

- *Decision of Hon'ble CESTAT, New Delhi in the case of* ***Raghuveer Metal industries Ltd. vs. Commissioner of CGST, Jaipur-I 2023 (12) TMI 371 - CESTAT New Delhi.***

- *Decision of Hon'ble CESTAT, New Delhi in the* ***case Elegant Developers VS. Commissioner, CE & CGST, Delhi-South 2022 (3) TMI 751 CESTAT NEW DELHI***

5. On the other hand, Ld. AR reiterated the findings of the impugned order.

6. After considering the submissions of both the parties and perusal of the material on record, I find that the only issue involved in the present case is whether the appellant is entitled to interest on the refund amount @6% per annum as granted by the Commissioner (Appeals) or @12% per annum as claimed by the appellant. I find that in view of the various decisions of the High Courts and various Benches of the Tribunal wherein it has been consistently held that interest on refund of deposit made during the

investigation is required to be computed @12% per annum. I also find that the jurisdictional High Court of this Tribunal has already held that rate of interest applicable in such cases is 12% per annum as held in the cases of CCE, Panchkula Vs. Riba Textiles Limited, reported in 2022 (5) TMI 1531 – Punjab and Haryana High Court and Sunrise Immigration Consultants Private Limited Vs. Union of India reported in 2023 (6) TMI 411.

7. Further, I find that this Tribunal has followed the ratio of the High court decision in the cases of Sunrise Immigration Consultants Private Limited Vs.CGST-Chandigarh Reported in 2023 (4) TMI 504 CESTAT, Chandigarh and Impressive Management Solutions Pvt. Ltd Vs. CGST, Chandigarh, 2023 (4) TMI 433 – CESTAT Chandigarh.

8. Further, I may refer to the decision of the Tribunal in the case of **Indore Treasure Market City Pvt Ltd** (supra) wherein the Tribunal after considering the various decisions of the Courts, has held that the assessee is entitled for interest on the amount of refund sanctioned @12% to be calculated from the date of payment till the date of disbursement. This decision of the Tribunal was challenged by the Revenue before the Hon'ble Madhya Pradesh High Court and the Hon'ble High Court vide its order dated 22.04.2024 reported as **CGST & CE vs. Indore Treasure Market City Pvt Ltd - 2024 (5) TMI 367 - MADHYA PRADESH HIGH COURT**, has dismissed the Revenue's appeal and has held in para 14 as under :

> **"14.** In view of the aforesaid discussions and the rival submissions made by learned counsel for the parties, the issues raised in the present appeal is covered by the judgments in the case of M/s Green Valley Industries Pvt. Ltd. (Supra) and M/s Riba Textiles Ltd. (Supra), therefore, this Court is of the considered opinion that no substantial question of

> law arises for consideration in the present appeal. The appeal *sans merit* and is hereby dismissed."

9. I also find that this issue was also decided by the Hon'ble Meghalaya High Court in the case of **CGST vs. M/s Green Valliey Industries Pvt Ltd – 2023 (7) TMI 1176 – MEGHALAYA HIGH COURT**, wherein the Hon'ble High Court vide its order dated 26.07.2023 has upheld the order of the Tribunal granting interest from the date of deposit @12% per annum till the refund is made. The relevant findings of the Hon'ble High Court in para 11 of its order is reproduced herein below :

> "**11**. The Tribunal has given adequate reasons in both the orders impugned, including the order by which the Department's application for correction or modification was rejected. According to the Tribunal, the deposit was made at a time when no quantified claim had been made on the assessee. On such basis, the Tribunal found that the deposit had not been made on account of any duty or interest which would attract the implied bar under Section 11B of the Act. It was a possible view taken on the set of facts that presented themselves before the Tribunal and, in this appellate jurisdiction, such interpretation does not call for any interference. Further, as to the quantum of interest awarded, the Tribunal, which is a specialised body dealing in matters pertaining to excise duty, took into account the previous judgments of the Supreme Court, High Courts and the Tribunal itself to justify that the rate of 12 per cent per annum would apply in the facts of the present case. Again, since there is some basis to the award of interest by the Appellate Tribunal, the same does not call for any interdiction."

9.2. I also find that in the case of **Raghuveer Metal Industries Ltd** (supra), the Tribunal has held that the appellant is entitled to receive interest at the rate of 12% from the date of deposit of the amount till the date of refund thereof.

10. In view of the decisions of the Hon'ble High Courts in the cases cited (Supra) wherein the Hon'ble High Court has granted the interest @ 12% per annum I follow the ratio of the decisions of the High Court and hold that the appellant is entitled to the rate of interest @ 12 % per annum on the amount deposited during investigation.

11. Consequently, the appeal filed by the appellant is allowed to that extend by setting aside the impugned order. The Original Authority is directed to compute the Interest @ 12% instead of @ 6 % as directed by the Commissioner appeal. Accordingly, the appeal is allowed on the above terms.

(Order pronounced in the open court on 24.01.2025)

(S. S. GARG)
MEMBER (JUDICIAL)

Kailash