CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHANDIGARH</u>

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 3023 of 2009

[Arising out of Order-in-Appeal No. 109/CE/APPL/DLH-IV/2009 dated 18.08.2009 passed by the Commissioner (Appeals), Central Excise, Faridabad]

M/s Super Auto (I) Ltd **……Appellant**
Plot No. 50, Sector 6,
Faridabad, Haryana

VERSUS

Commissioner of Central Excise, Goods & Service Tax, Faridabad **……Respondent**
New CGO Complex, N H IV,
Faridabad, Haryana

<u>APPEARANCE:</u>

Mr. Veer Singh, Advocate for the Appellant

Mr. Narinder Singh and Mr. Yashpal Singh, Authorized Representatives for the Respondent

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

FINAL ORDER NO. 61604/2025

DATE OF HEARING: 23.10.2025
DATE OF DECISION: 23.10.2025

The present appeal is directed against the impugned order dated 18.08.2009 passed by the Commissioner (Appeals), Central Excise, Faridabad.

2. Heard both the parties and perused the material on record.

3. The learned Counsel for the appellant submits that as there were divergent views of the Tribunal as well as the High Court on the issue, the Single Member Bench of this Tribunal vide its Interim Order dated 12.10.2018 referred the matter to the Larger Bench to decide the following issue:

> *"Whether in case an assessee did not opt for provisional assessment, can an assessee claim refund of excess duty paid by him in terms of Section 11B of the Central Excise Act, 1944 or not?"*

He further submits that to answer the above reference, the Larger Bench of the Tribunal was constituted and the Larger Bench vide its Interim Order dated 12.09.2025 has held that the appellant is not entitled for refund as the assessment was not on provisional basis. In this background, the learned Counsel prays that now the appeal may be disposed of by the Single Member Bench.

4. Vide Interim Order No. 13/2025 dated 12.09.2025, the Larger Bench, by relying on the decision of jurisdictional High Court in the case of **Mauria Udyog Ltd – 2007 (207) ELT 31 (P&H)**, has held in para 9 & 10 as under:

> "**9.** Considering the decision of jurisdictional High Court in the case of Mauria Udyog Ltd (supra), which is upheld by the Hon'ble Apex Court (cited supra), we are of the considered opinion that the appellant is not entitled for refund as the assessment was not on provisional basis.
>
> **10**. The reference is answered against the appellant. Let the matter be placed before the Single Member Bench for drawing the Final Order."

5. Since the Larger Bench has answered the question against the appellant vide its Interim Order dated 12.09.2025, I am of the considered opinion that the appellant is not entitled for refund as the assessment was not on provisional basis. Consequently, the appeal of the appellant is dismissed.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

RA_Saifi