CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60132 of 2020

(Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-53-2020 dated 24.02.2020 passed by the Commissioner (Appeals), Ludhiana)

M/s Ranjeev Steel Pvt ltd **......Appellant**
(Amloh Road, Mandi Govindgarh Fatehgarh Sahib Punjab)

VERSUS

C.C.E & S.T. Ludhiana **......Respondent**
(Central Excise house F-Block Rishi Nagar Ludhiana Punjab 141001)

APPEARANCE:

Shri Naveen Bindal, Advocate for the Appellant

Shri Rajeev Gupta and Shri H.S Brar, Authorised Representative for the Respondent

CORAM: **HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**

FINAL ORDER NO. 60403 of 2020

DATE OF HEARING: 29.09.2020
DATE OF DECISION: 29.09.2020

PER ASHOK JINDAL:

The appellant is in appeal against the impugned order wherein the interest of the delayed refund has been rejected by the department.

2. The facts of the case are that initially the appellant filed refund claim under Rule 5 of Cenvat Credit Rules, 2004 on 19.09.2016. The said refund claim was allowed by this Tribunal vide Final Order No. A/60452/2019 dated 01.05.2019. Thereafter on 06.06.2019 the appellant again wrote a letter to the department that as tribunal has

sanctioned their refund claim, therefore, the same may be refunded along with interest. The said refund claim was sanctioned to the appellant on 25.09.2019 without interest. The said order was challenged before the Ld. Commissioner (Appeal) challenging the non payment of interest to the appellant after three months from the date of filing of original refund claim i.e. 19.09.2016 till its realisation. The Ld. Commissioner (Appeal) dismiss the claim of interest holding that the adjudicating authority erroneously sanctioned the refund claim under Section 11B of the Central Excise Act, 1944 but in this case the appellant has filed refund claim under Rule 5 of Cenvat Credit Rules, 2004, therefore the claim of interest is not maintainable.

3. Against the said order, the appellant is before me.

4. The Ld. Counsel for the appellant submits that the Ld. Commissioner (Appeal) rejected their interest on the ground that for the refund claims filed under Rule 5 of Cenvat Credit Rules, 2004 there is no provision to pay interest on delayed refund. He drew the attention to the decision of the Hon'ble High Court of Gujarat in the case of ***C.C.E vs. Reliance Industries ltd. reported in 2010 (259) E.L.T. 356 (Guj.)*** to say that refund claims under Rule 5 of Cenvat Credit Rules, 2004 would be refund made under 11B Central Excise Act, 1944, therefore their refund claim is to be treated as sanctioned under Section 11B of Central Excise Act, 1944 and provisions of Section 11BB of the Act are applicable for the refund claim filed by them and the adjudicating authority also sanctioned the refund claim under section 11B of the Act and the said part of the order was not challenged by the Revenue before any authority. In that circumstances, they are entitled for interest after three months

from the date of filing of refund on 19.09.2016 till its realization, in terms of the decision of the Hon'ble Apex Court in the case of ***Ranbaxy Laboratories Ltd. Vs. Union of India reported in 2011 (273) E.L.T. 3 (S.C)***.

5. On the other hand, the Ld. AR defended the impugned order by saying that as appellant has not mentioned under which provision they are entitled to claim interest on delayed refund. As no provision has been mentioned by the appellant to claim of interest, therefore, interest cannot be sanctioned to the appellant. He further submitted that the Judgments relied upon by the Ld. Counsel are not applicable to the facts of this case and all these judgments are in case of refund sanctioned under Rule 5 of Cenvat Credit Rules for export of goods.

6. Heard the parties and considered the submissions in detail.

7. In this case, it is in fact on record that the adjudicating authority has sanctioned the refund claim under Section 11B of Central Excise Act, 1944 and the said part of the order has attained finality as the revenue had not challenged the said order before any appellate authority. In that circumstances, in the impugned order mere mentioning that the adjudicating authority has erroneously sanctioned refund claim under Section 11B of the Act shall not make the order of the adjudicating authority on better footing. The fact is on record that the adjudicating authority sanctioned refund claim under Section 11B of the act, therefore, provisions 11BB of Central Excise Act, 1944 are attracted to the facts of this case for entertaining the claim of interest.

8. In view of these, I hold that the appellant is entitled to claim interest on delayed refund.

9. Now, the question arises from which date the appellant is entitled to claim interest on delayed refund. It is a settled law of by the Hon'ble Apex Court in the case of ***Ranbaxy Laboratories Ltd.(Supra)*** that assessee is entitled to claim interest on delayed refund after three months from the date of filing of refund claim before the authorities till its realization.

10. Therefore, I hold that the appellant is entitled to claim interest after three months from the date of filing of refund on 19.09.2016 till its realization

With these terms, the appeal is disposed off.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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