CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH
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REGIONAL BENCH – COURT NO. 1

Appeal No.E/60241/2020-Ex

[Arising out of OIA No.APPEAL/PKL/COMMISSIONER/21/20 dt.4.8.2020 passed by the Commissioner (Appeals) of CGST, SCO-407-408m Sector 8, Panchkula]

M/s.Noble Chlorochem Pvt. Limited : Appellant (s)
(VPO Holuwas, Dadri Road, Distt. Bhiwani, Haryana)

Vs

CCE & ST, Rohtak :Respondent (s)
(Pacific City Centre, IInd Floor, Near Jat Bhawan, Delhi Road, Rohtak]

APPEARANCE:
Shri Naveen Bindal, Advocate for the Appellants
Ms. Geetika, Authorised Representative for the Respondent

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

Date of Hearing:11.03.2021

Date of Decision:19.03.2021

FINAL ORDER No.60566/2021

***Per :*Ashok Jindal**

The appellant is in appeal against the impugned order demanding interest @ 12% per annum of the refund already sanctioned.

2. The facts of the case are that the appellant is a manufacture of excisable goods i.e. potassium silicate. A show cause notice dated 9.12.2011 was issued to the appellant raising demand of excise duty of Rs.80,24,977/- along with interest and to impose penalty. The said show cause notice was decided vide OIO dated 28.2.2013 and the demand was confirmed. The appellant deposited Rs.25,00,000/- as
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pre-deposit on 16.8.2014 as per direction of this Tribunal for entertaining their appeal. Later on, vide order dated 19.12.2019, this Tribunal allowed the appeal and dropped the demand. Thereafter, the appellant vide their letter dated 14.2.2020 filed refund claim of Rs.25,00,000/- along with interest. The adjudicating authority in terms of CBEC's Circular No.984/08/2014 dated 16.98.2014 sanctioned the refund claim of appellant from the date of deposit along with interest @ 6%. By way of this appeal, the appellant is seeking interest @ 12% per annum.

3. To support his contention, Ld. Counsel for the appellant has relied upon the decision of Hon'ble Apex Court in the case of ITC Limited-2005 (179) ELT 15 (SC), LSE Securities Limited vs. CCE-2015 (320) ELT 350 (P&H), Shreewood Products Pvt.Ltd.-2016 (44) ELT STR 592 (P&H) and in the case of UCAL Fuel Systems Limited-2014 (306) ELT 26 (Mad.).

4. On the other hand, ld.AR opposed the contention of the ld. Counsel and relied upon the decision in the case of Devendra Udyog vs. Commissioner of CGST, Jodhpur-2020 (372) ELT 385 (Tri.-Del.). Further, relied on the Notification issued by the Government of India is part of statute and being creator of law not to go beyond the provision of law and statute as held by this Tribunal in the case Ultratech Cement Ltd. vs. CCE, Bhavnagar-2013 (31) STR 600 (Tri.-Ahmd.). Therefore, it is prayed that the impugned order is to be set aside.

5. Heard the parties.

6. A short issue involved in the matter is that what should be the rate of interest in case of delayed refund sanctioned to the appellant.

The Hon'ble Jurisdictional Punjab & Haryana High Court in the case of LSE Securities Ltd. (supra) directed the department to pay interest @ 15% per annum from the date became due after excluding 3 months from the date of passing of order. Further, in the case of Shreewood Products Pvt.Ltd.- (supra), again the Hon'ble Jurisdictional High Court has held that the appellant is entitled to payment of interest @ 12% per annum in terms of section 11BB of Central Excise Act, 1944 after 3 months after passing of the order of this Tribunal till the refund was granted. As per two the decisions of Hon'ble jurisdiction Punjab & Haryana High Court is binding on this bench of the Tribunal, therefore, the appellant is entitled to refund @ 12% per annum after 3 months from the date of passing of the order of this Tribunal i.e.19.12.2019 till the refund is granted.

7. With these terms, the appeal is disposed of.

(Pronounced in the open Court on 19.03.2021)

(Ashok Jindal)
Member (Judicial)

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