IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

REGIONAL BENCH - COURT NO. – III

Customs Appeal No. 40662 of 2019

(Arising out of Order-in-Appeal Sea C. Cus. II No. 777 & 778/2018 dated 18.12.2018 passed by the Commissioner of Customs (Appeals- II), Chennai)

M/s. Steel Authority of India Ltd. Appellant
2nd Floor, Ispat Bhavan
No. 5, Kodambakkam High Road
Nungambakkam, Chennai – 600 034.

Vs.

Commissioner of Customs (Sea) Respondent
Chennai II Commissionerate
Custom House, 60, Rajaji Salai
Chennai – 600 001.

APPEARANCE:

Shri R. Srinivasan, Consultant for the Appellant
Ms. T. Usha Devi, DC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Final Order No. **40990 / 2019**

Date of Hearing: 02.08.2019
Date of Decision: 02.08.2019

The above appeal arises out of an order passed by Commissioner (Appeals) who rejected the prayer of the appellant to grant interest on delayed refund.

2. On behalf of the appellant, ld. consultant Shri R. Srinivasan appeared and argued the matter. He submitted that the appellant had filed an appeal before Commissioner (Appeals) against an order passed by adjudicating authority in respect of inclusion of drawing

and design charges in the assessable value. The issue was decided in favour of the appellant by Commissioner (Appeals) by separate Order-in-Appeal dated 20.1.2012 and 29.8.2012. The appellant had paid the duty under-protest during the pendency of litigation and had then filed refund claims dated 17.2.2012 and 18.9.2012 for refund of the said amounts in terms of Section 27 of Customs Act, 1962. In the interregnum, the department filed appeals against the orders dated 20.1.2012 and 29.8.2012 along with stay applications before the Tribunal. The stay application was dismissed by the Tribunal on 30.4.2013. The department did not grant refund even though the stay applications were dismissed. The refund was sanctioned and paid to the appellant only on 23.2.2018 with much delay. Thereafter, the appellant filed an appeal for grant of interest and vide impugned order, the said request was rejected. He adverted to section 27A of the Customs Act, 1962 and argued that the refund ought to be sanctioned within three months from the date of application of refund. The appellants are therefore eligible for the interest on the delayed refund. He adverted to para 11 of the impugned order and submitted that the lower authority has wrongly observed that the refund granted was fully provisional and since there is no order finalizing the refund, the appellants are not eligible for interest on the delayed refund. That such observations are not based on any legal footing.

3. The ld. AR Ms. T. Usha Devi appeared and argued for the department. She submitted that the department had filed appeal along with stay application before the Tribunal. Thus, the refund was not sanctioned immediately because of the pendency of the stay

application. The department was awaiting for the outcome of the appeal by the Tribunal and therefore there is no delay in sanction of the refund.

4. Heard both sides.

5. The issue is with regard to interest on delayed refund. As per Section 27 of the Customs Act, 1962, the appellants are eligible for interest in case refund is not sanctioned within three months from the date of application. On perusal of the facts presented before me, it is seen that the department has filed stay application before the Tribunal. The stay application was dismissed on 30.4.2013. The refund ought to have been sanctioned to the appellant on dismissal of the stay application. Thus, there is indeed delay in sanctioning the refund. The appellant is therefore eligible for the interest on the delayed refund. In my view, the appellants are eligible for interest from three months after the dismissal of the stay application (30.4.2013). The impugned order rejecting the interest on delayed refund is unjustified and requires to be set aside which I hereby do. The appeal is allowed with a direction to the lower authority to quantify and pay the interest payable on the delayed refund amount with immediate effect.

(Dictated and pronounced in open court)

(**SULEKHA BEEVI C.S.**)
Member (Judicial)

Rex