IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH AT CHENNAI

C/40425/2013

(Arising out of Order-in-Appeal C.CUS No. 1326/201. dated 22.11.2012 passed by the Commissioner of Customs (Appeals), Chennai).

Ms. A. Rajkumari — Appellant

Vs.

CC (Airport), Chennai — Respondent

Appearance

Shri T. Ramesh, Advocate
for the appellant

Shri B. Balamurugan, AC (AR)
for the Respondents

CORAM :

Hon'ble Smt. ARCHANA WADHWA, JUDICIAL MEMBER

Date of Hearing/Decision: 08.05.2017

FINAL ORDER No. 40675/2017

After hearing both sides represented by Shri T. Ramesh, Advocate and Shri B. Balamurugan, AC (AR), I find that a very short issue is involved in the present case. In the year 2000, 70 Nos. of Gold Bars of 10 tolas each weighing totally 8155 grams were seized by the DRI from the appellant's possession and after due process of adjudication, the same were confiscated by the order of the original adjudicating authority. When the matter reached Tribunal through

Commissioner (Appeals), the impugned order was set aside and the matter was remanded back.

2. During remand proceedings, the appellants were given an option to redeem the goods on payment of Rs. 18,00,000/-. On matter reaching the Tribunal again, such redemption fine was reduced to Rs. 5,00,000/- and the Revenue was directed to return the gold bars to the assesse.

3. It is seen that during the pendency of the proceedings before various levels, the said gold bars were sold by Revenue @ Rs.61,00,000/- approximately. As a consequence of the Tribunal's order, the sale proceeds of the gold bars were returned to the appellant, after deducting the amount of redemption fine of Rs.5,00,000/- along with duty payable.

4. The appellant's grievance at this point is that while refunding the sale proceeds, they should have also been given interest from the date of sale of the goods till the date of refund of the amount. For the said purpose they have also filed writ petition before the Hon'ble High Court of Madras. The Single Member Bench of the Hon'ble High Court of Madras held that the interest is payable by the Revenue and directed the Revenue to consider the claim of interest and pay appropriate interest on the said refund amount within a period of four weeks.

5. The said order of the Single Judge Bench was put to challenge before the Division Bench by Revenue. DB while disposing the Revenue appeal observed as under:-

"2. In our view, the appellants have to consider as to whether interest is payable on the goods confiscated by them. Prima facie, it appears to us that in the instant case in hand, the respondent would be entitled to at least some interest. Be that as it may, it is for the appellants to decide that question and then refund the amount together with interest, if any, within the time specified by the learned single judge. The writ appeal thus stands disposed of. There shall be no order as to costs. Consequently, M.P.No.1 of 2010 is closed".

6. In the light of the above directions of the Hon'ble High Court, the matter for interest claim was again taken up by the first adjudicating authority and was rejected. On appeal, the Commissioner (Appeals) observed that there is no provision for payment of interest in the customs proceedings where the goods confiscated stand owned by the exchequer till the same are released on exercise of option by the litigant. As such he again rejected the interest claimed. Hence the present appeal.

7. After hearing both sides, I find that though the Hon'ble High Court of Madras while disposing of the writ petition of the appellant as also the appeal filed by the Revenue had not directed the payment of interest but the DB judgment directed the Commissioner of Customs to decide the issue and refund the amount with interest, if any, within the time limit specified by the Single ld. Judge. As such, I agree with the lower authorities that there was no clear cut direction for payment of interest but the same was to be decided independently by the lower authorities.

Customs, Excise & Service Tax Appellate Tribunal
सत्यमेव जयते

8. At this stage, ld. Advocate has brought to my notice the decision of the Hon'ble Delhi High Court in the case of *Kailash Ribbon Factory Ltd. Vs. CCE, New Delhi* - 2002 (143) ELT 60 (Delhi) as also the decision of the Hon'ble High Court of Madras in the case of *Collector of Customs, Madras Vs. Meena A. Bharwani* - 2006 (194) ELT 273 (Mad.), wherein it was held that whenever Revenue disposes of the confiscated goods during the pendency of the legal proceedings, the litigant is entitled to the refund of the sale proceeds along with payment of interest. To the similar effect is the decision of the Hon'ble Bombay High Court in the case of *K.P. Abdul Majeed Vs. UOI* - 2009 (247) ELT 119 (Bom.), wherein it was held that the petitioner was entitled to interest on the refund of seized and confiscated Indian currency.

9. In as much as the said decisions were not before lower authorities, who did not go through the same, I deem it fit to set aside the impugned order and remand the matter to the original adjudicating authority to quantify the interest amount at the prescribed rates in the light of the above decisions of the High Courts. In as much as it is an old case I expect the adjudicating authority to complete the denovo proceedings as soon as possible and preferably within three months from the date of this order. Appeal is disposed of in the above manner.

(Order is dictated and pronounced in the open Court)

9/5/17

(ARCHANA WADHWA)
JUDICIAL MEMBER

BB

Customs, Excise & Service Tax Appellate Tribunal

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सहायक पंजीकार/Asst. Registrar
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अपील