

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO.III

Excise Appeal No. 50710 of 2025

(Arising out of OIA No. RPR-EXCUS-000-APP-81-24-25 dated 17.05.2024
passed by Commissioner (Appeals) - Raipur)

Sourabh Rolling Mills Pvt Ltd

Acchooli Road, Kanhera, Urla Industrial Area
Raipur, Chhatisgarh-492003

...Appellant

VERSUS

**Commissioner of Central GST & Central
Excise – Raipur**

GST Building, Dhamtari Road, Tikrapara,
Raipur, Chhattisgarh, 492001

...Respondent

APPEARANCE:

Shri Jitin Singhal, Advocate appeared for the appellant
Shri V.J. Saharan, Authorised Representative appeared for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

**DATE OF HEARING: 16.10.2025
DATE OF DECISION: 19.11.2025**

FINAL ORDER NO. 51804 /2025

SOMESH ARORA:

The brief facts of the case are that the Appellant M/s Sourabh Rolling Mills Private Limited, holding Central Excise Registration No. AAICS2367MXM001 is engaged in the manufacturing of MS Ingots and TMT Bars falling under chapter heading 72 of the first schedule to the Central Excise Tariff Act, 1985, and also availing Cenvat Credit of the duty paid on inputs and capital goods. The Appellant has its place of business at M/s Sourabh Rolling Mills Pvt. Ltd., Accholi Road Kanhera, Urla Industrial Area, Raipur (C.G.).

1.1 That acting upon intelligence that Appellant is engaged in the suppression of production and clandestine removal of their final products viz. MS Billet, MS Ingots, and TMT Bars, a team of Central Excise Preventive Officers (hereinafter "Departmental Officers") visited the factory premises of the Appellant on 31.01.2014 and conducted the verification of the stock of raw material and finished goods maintained at

the factory premises and that of declared in the periodic ER-1 & ER-6 returns.

1.2 That as per the outcomes of such investigation by the departmental officers, the SCN proceedings were initiated vide SCN No. F.No. DGCEI/BhZu/36001/04/2016/1726 dated 04.03.2016 to show cause as to why the Central Excise Duty to the tune of Rs. 3,38,76,645/- demanded along with the applicable interest under section 11A of the Central Excise Act, 1944 and penalty under Section 11AC of the Central Excise Act, 1944 and penalty under Rule 25 of the Central Excise Act, 1944 should not imposed and recovered from the Appellant, after appropriation of the amount of duty already paid to the tune of Rs. 70,00,000/-.

1.3 That having been aggrieved by the above O-1-0 the Appellant preferred an appeal before Hon'ble CESTAT, and the tribunal after considering the facts and submission made by the Appellant set aside the O-1-0 and passed the Final Order No. A/51641-51642/2019-EX[DB] dated 13.12.2019 in favor of the Appellant and dropped the demand of Central Excise Duty as upheld in the O-I-O

1.4 That following the above Final order by the Hon'ble CESTAT the Appellant submitted a refund claim to the Superintendent, Central GST & Central Excise Range-II, Division II Raipur (C.G.), claiming the refund amounting to Rs. 85,00,000/-

1.5 The appellant, holding Central Excise Registration No. AAICD2367, filed a claim for a refund of Rs. 85,00,000/-. The Deputy Commissioner of CGST, Central Excise, and Service Tax Division-II, Raipur, sanctioned a refund of Rs. 70,00,000/- along with interest of Rs. 17,48,900/- as per Order in Original No. 31/Refund/DC/RD-II/2019 dated 12.02.2020.

1.6 Further the department has filed an appeal against the order. It is crucial to point out that the department neither communicated with nor informed the appellant about the appeal process. Furthermore, the appellant neither received as such copy of Appeal nor any personal hearing letter and accordingly the order was passed ex-parte.

1.7 The department further issued a show cause notice stating, portion of the interest refund, amounting to Rs. 16,55,345/-, had been erroneously sanctioned. Consequently, show cause F.No.GEXCOM/SCN/CE/20/2021-CGST-DIV-RPR-2-COMMRTE-RAIPUR dated 12.02.2021 was issued. This notice proposed the recovery of the erroneously sanctioned amount of Rs. 16,55,345/- under Section 11A of the Act, along with applicable interest under Section 11AA and a penalty under Section 11AC(1)(a) of the Act.

1.8 The show cause notice was further adjudicated in an order vide order in original No. 04/DC/CEX/Raipur-II/2022-23, dated 28.02.2023 by the Deputy Commissioner, Central Goods and Service Tax, Division-II, Raipur. In this impugned order, the adjudicating authority directed the recovery of Rs. 16,55,345/- from the appellant under Section 11A of the Act, along with interest as per Section 11AA. Additionally, a penalty of Rs. 1,65,534/- was imposed under Section 11AC(1)(a) of the Act.

1.9 The appellant, dissatisfied with the order dated 28.02.2023, filed an appeal challenging the decision, presenting the grounds for contesting the order.

1.10 That, during the personal hearing, the appellant has specifically requested the Honorable Commissioner (appeal) to decide the appeal on the basis of the appeal along with the additional submission which the appellant is going to file within 10 days and accordingly the appellant after getting the hearing on 6 May 2024 has submitted the additional submission which was also acknowledged in the office of honourable Commissioner appeal on 15 May 2024. However, honourable Commissioner appeal has barely notice additional submission and decided the appeal without uttering a single fact against the additional submission. (Copy of the additional submission filed by the Appellant, which was acknowledged on 15 May 2024 in the office of Commissioner appeals has been attached with appeal memo).

1.11 That having been aggrieved by the above-referred Order-in-Appeal the Appellant is filing this appeal on the below-mentioned grounds, which are independent and alternative without prejudice to each other.

Grounds of Appeal for the appellants

- Because the whole proceeding on the basis of which the order in original, order in appeal is passed has no legs to stand in the eyes of law as the department more particularly, Asst Commissioner, Division- II, Central GST (Mr. Prashant Singhla) has issued the show cause notice F.No.GEXCOM/SCN/CE/20/2021-CGST-DIV-RPR-2-COMMRTE-RAIPUR dated 12.02.2021 after the Order Appeal No RPR-EXCUS-000-APP-069-20-21 dated 11.01.2021 is wrong as the Department would have recovered the amount from the appellant instead of issuing the show cause notice.
- Thus, the whole proceeding on the basis of the show cause notice which the Department has proceeded is against the law and is liable to be set aside on this very ground itself.
- Because the Appellant is entitled to claim interest for the period the amounts (i.e. amount paid during investigation and also amount deposited by way of pre-deposit) remained with the Department i.e. from the date of deposits to till, the amount is actually refunded by the Department to the party after the decision of appeal and therefore the impugned order rejecting the interest on such amount is liable to be set aside.
- The appellant submits that it is an admitted fact that the Appellant had pre-deposited an impugned amount and both the lower authorities have correctly recorded that such amounts were in the nature of deposit, as a natural corollary, it never had the character of duty, as it was not payable at all by the Appellant, since the CESTAT already held in favour of the Appellant. Thus, the issue in dispute is no more res integra and has been settled in favour of the Appellant by Hon'ble Courts that interest on refund amount of deposit is payable from the date of deposit till the date of its refund.
- The honourable Commissioner appeal has referred the circular in which the circular has clarified that the amount which the appellant has paid during the investigation will be considered for the purpose of calculating pre-deposit. However, the honourable Commissioner appeal is grossly erred in holding that the amount which was paid

additionally to requirement to the pre-deposit amount during the investigation will not be considered for calculation of interest which is wrong and denied as the department itself has collected the tax during investigation by creating unnecessary pressure and poses threat during investigation which leads to the payment of the impugned amount and therefore, It is most respectfully submitted that, while passing the aforementioned Order Honble Commissioner Appeals, failed to consider the various precedent judgements of this Hon'ble Tribunal, various High Courts and the Hon'ble Supreme Court of India, wherein the interest has been granted from the date of deposit till the payment of refund on whole amount. It is submitted that the Hon'ble Calcutta High Court in the case of CCE vs. Calcutta Chemical Company Ltd. MANU/WB/0276/1992, held when Govt has enjoyed the money of assessee, department must pay interest at the rate of 12% for that period. It is further submitted that the Hon'ble Kerala High Court in the case of Sony Pictures Networks (P) Ltd vs. 2017(353) ELT 179 (Ker) has held as follows:-

"The Apex Court CCE VS. ITC (supra) confined the interest to 12% and further held that any judgment/decision of any High Court taking contrary view, will be no longer good law. The said judgment is rendered, in my considered opinion under similar circumstances. So also, in Kull Fire works Industries Vs. CCE 1997(95) ELT 3 SC, the pre-deposit made by the assessee was directed to be returned to him with 12% interest."

- It is submitted that this Hon'ble Tribunal in the case of Marshall Foundry & Engg. (P) Ltd vs. CGST (order dated 28.11.2019 in Appeal No. E/60916/2019), while discussing the entire law on the subject, has held that Appellants are entitled to claim interest for the period the amounts (i.e. amount paid during investigation and also amount deposited by way of pre-deposit) remained with the Department i.e. from the date of deposits to till, the amount is actually refunded by the Department to the party after the decision of appeal. It is Further submitted that, similar view has been taken by this Hon'ble Tribunal in the following cases:-

- (i) Fujikawa Power Vs CCE&ST, 2019-TIOL-3661-CESTAT-Chandigarh-Central Excise
- (ii) Riba Textiles Vs CCE&ST, Panchkula, 2020 (2) TMI 602-CESTAT Chandigarh
- (iii) Pensala Exports Pvt. Ltd Vs CCE&ST, Jalandhar, 2019 (12) TMI 9-CESTAT Chandigarh

- It is respectfully submitted that, in view of the aforesaid laws, which has not been considered by this Hon'ble Tribunal, the applicant is entitled to get interest from the date of deposit till its realization. It is therefore submitted that the applicant be allowed to receive interest from the department for the money lying with the department from the date of deposit till its realization.
- Because the amount paid by the appellant under protest is a deposit and that the appellant is entitled to interest @12% on such an amount been retained by the Revenue from the date of deposit till its realization, as held by the Hon'ble CESTAT, Chandigarh Bench in case of Shahi Exports Ltd. Commissioner of CE & ST, Haryana. V.
- It is respectfully submitted that this Hon'ble Tribunal in the case of Ghaziabad Ship Breakers Pvt. Ltd. Vs. Commissioner of Customs MANU/CS/0290/2010 has held that interest @ 12% shall be allowable for the period the amount remained kept/deposited with the Department to till the date of refund. Subsequently, this Hon'ble Tribunal, in a very latest case of Arihant Tiles and Marbles Pvt. Ltd. MANU/CE/0346/2019, has held that interest by way of compensation is allowable relying upon the judgment in the case of Sandvik Asia Ltd. 2006 (196) ELT 257 SC. It is further submitted that this Hon'ble Tribunal in the case of Binjrajka Steel Tubes Ltd. vs. CCE: MANU/CB/8380/2007 has observed as under.-

"The Hon'ble Gujarat High court, in the case of Vijay Textiles, has held that if the Excise authorities have collected any amount as tax without the authority of law, it is just and proper and that they should pay interest at the rate of 12% per annum from the date of collection of the said amount till the date of actual repayment. The Hon 'ble Calcutta High Court, in the case of Dilichand Shreelal (cited supra), has held that the department is liable to pay interest at the rate of 12% p.a. when the duty collected is unauthorized. The Hon'ble Rajasthan High Court, in the case of Adarsh Metal Corporation (cited supra), has held that there is no need to file any claim arising out of order passed in appeal and the state is liable to refund the amount with interest at the rate of 12%. The Hon 'ble Calcutta High Court, in the case of Calcutta Chemical Co. Ltd. (cited supra), has held that the department is liable to pay interest for unauthorized collections. The Hon 'ble Calcutta High Court, in the case of East Anglia Plastics Ltd. (cited supra), has awarded interest at the rate of 10% for the use of money collected without

authority of Law. The ratio of the above case laws is clearly applicable to the present case.

8. Therefore, we allow the payment of interest from the date of payment of the duty by the appellant to the department till the date of payment of refund at the rate as notified for interest on refund under Section 11BB during the relevant periods."

- The appellant places reliance on the decision of Hon'ble Apex Court in Sandvik Asia Limited v. Commissioner of Income Tax-I, Pune 2006 (196) ELT 257 (SC), wherein interest on delayed refund was held payable to the assessee from the date of deposit till the date of its refund under Section 243 of the Income Tax Act, 1961. The CESTAT relying on Sandvik Asia case (supra), which though was rendered in the context of Income Tax Act, have unequivocally held in the following cases that the provisions of Section 35FF of the Central Excise Act and Section 243 of the Income Tax Act, 1961 are parimateria, and thus, the assessee are entitled to interest on the refund amount from the date of payment/deposit till the date of disbursal:
 - a) J.K. Cement Works v. CE & CGST, Udaipur-2021 (3) TMI 123 - CESTAT NEW DELHI
 - b) Hindustan Perfumers v. CGST, Delhi, 2022 (2) TMI 138 CESTAT NEW DELHI
 - c) Parle Agro Pvt. Ltd. v. CGST, Noida (Vice-Versa) - 2021 (5) TMI 870-CESTAT ALLAHABAD
 - d) Tehri Pulp & Paper Limited v. CGST, Meerut (U.P.),2022 (1) TMI 807-CESTAT ALLHABAD
 - e) Dwarikesh Sugar Industries Ltd. v. CGST, Greater Noida, 2022 (1) TMI 314-CESTAT ALLHABAD
 - f) Batra Henlay Cables v. CGST, New Delhi, 2022 (1) TMI 201-CESTAT NEW DELHI
 - g) Glossy Colour & Paints v. Commissioner of Central Tax, Delhi, 2021 (7) TMI 814-CESTAT NEW DELHI
 - h) Marshall Foundry & Engg. Pvt. Ltd v. CGST, Faridabad, 2019 (11) TMI 1269 CESTAT CHANDIGARH, r/w corrigendum 2.12.2019.
- Further, the same view was taken in the case Ghaziabad Ship Breakers Pvt.Ltd.-2010 (260) ELT 274 (Tri. Ahmd.), wherein this Tribunal observed as under:-

"5. I have considered the submissions made by both the sides. I notice that appellants deposited amount in September, October and in November 2004, as per the directions of the department. In September 2004, the Hon'ble Gujarat High Court had dismissed the SCA filed by the appellants against the order of the Tribunal rejecting the appeal for failure to make the pre- deposit. This SCA was dismissed in September 2004 and SLP was filed in the Hon'ble Supreme Court in October 2004. In July 2005, the Hon'ble Supreme Court ordered that if the amount directed to be deposited by the Tribunal is deposited, the appeals before the Tribunal has to

be restored and decided on merits. In these circumstances, the amount deposited by the appellant is to be treated as pre-deposit since the matter had not attained finality during the relevant period. Therefore, refund is to be treated as refund of pre-deposit made when the appeal was pending. There is no dispute that the amounts deposited is duty but this is not the issue which has been taken into account while precedent decisions have allowed the interest at 12% on the refunds claimed in respect of pre deposit. I find that in the decisions cited by the learned advocate, interest at 12% has been allowed. Therefore, following the judicial discipline, I consider it appropriate that interest in this case also is to be allowed @ 12%. Accordingly, original adjudicating authority is directed to workout the differential interest amount and make the payment to the appellants."

- Following this decision, the appellant sought a refund of the pre-deposit made during legal proceedings, alongside interest. Despite authorities sanctioning the principal amount, the interest claim was rejected which is wrong and liable to be set aside.
- Because the impugned order upholding the penalty is liable to be set aside as the appellant has not done anything which leads to the penalty and the instant case, honourable Deputy Commissioner, who has given the refund has passed the order as per the law however, on the basis of this order, honourable Asst Commissioner, who has passed the show cause notice and even order in original has no legs to stand in the eyes of law and therefore the penalty which was confirmed is also liable to be set aside.
- Because it is a settled principle of law that the quasi-judicial authority cannot proceed with the adjudication of the case on the basis of lack of information or wrong/incorrect/baseless information supplied by the department, thus the adjudication in the impugned case is void and does not have legal validity.
- The appellant most respectfully submits that, the quasi-judicial authority in this case has not adhered to the relevant key principles to ensure a fair and just resolution of the matter at hand. First and foremost, it is imperative that the authority provides the appellant with a fair hearing, allowing them ample opportunity to present their case and provide any relevant evidence in support of their representations, which ultimately ensures that all pertinent information is considered before reaching a decision.

- Furthermore, the authority must issue a detailed speaking order that clearly articulates the reasons for their decision. This entails a thorough examination of the facts and arguments presented by the appellant, as well as a reasoned explanation for either accepting or rejecting their representations. By providing a detailed explanation of the rationale behind the decision, the authority promotes transparency and accountability in the decision-making process.
- Moreover, the authority must carefully consider the facts and figures presented by the appellant regarding the deposits made during the investigation and audit process. This includes determining whether any excess deposits are available with the Revenue and whether they can be adjusted against the pre-deposit requirement for maintaining the appeal. By undertaking a diligent examination of the relevant facts, the authority ensures that their decision is well-informed and based on a thorough understanding of the circumstances.
- Additionally, it is crucial that the authority applies their mind thoughtfully throughout the decision-making process. This entails carefully weighing the arguments and evidence presented by both parties (i.e., the 'appellant' & the 'respondent') before arriving at a decision. By demonstrating a thoughtful consideration of the issues at hand, the authority reinforces the integrity and credibility of their decision-making process.
- Finally, the authority must comply with the principles of natural justice, which include giving both parties a fair opportunity to be heard and providing reasons for the decision reached. Adhering to these principles ensures that the rights of the parties (i.e., 'appellant' & the 'respondent') involved are respected and that the decision-making process is conducted in a manner that is fair and just.
- In summary, by adhering to these key principles, the quasi-judicial authority can ensure a fair and transparent decision-making process that upholds the principles of justice and fairness. But in the impugned matter the quasi-judicial authority has foregone

these key principles and procedures, and blatantly passed the impugned order which as per the above-stated proposition is invalid, making the present order unsustainable and void.

- In view of the foregoing submissions/grounds, the impugned order passed by the Ld. Commissioner (Appeals) of Central GST, Central Excise and Customs Duty, Raipur on the basis of the order-in-original cannot stand in the eyes of the law and hence the order-in-appeal so passed for rejection of refund claim is vexatious and is liable to be quashed and refund claim is eligible to be allowed accordingly.

2. Learned Authorised Representative relies on the findings in the impugned order as follows:-

"An appeal was filed by the department before the Commissioner (Appeals), CGST, Raipur against the said refund order dated 12.02.2020 of the Divisional Officer on the ground that the interest upon the entire refund was not legal and proper. In this regard para No.31 of CBEC Circular No.984/08/2014-CX dated 16.09.2017 was relied upon, which mentioned that "payments made during the course of investigation or audit, prior to the date on which appeal is filed, to the extent of 7.5% or 10% subject to the limit for Rs. 10 crores can be considered to be deposit made towards fulfillment of stipulation under Section 35FF of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962. It was therefore contended that the demand was confirmed for Rs.3,38,76,645/- the amount of pre-deposit was required to be considered to the extent of 7.5% ie. to the extent of Rs.25,40,748.-only, because it was clearly mentioned in said circular that amounts paid over and above the amounts stipulated under Section 35F of the Act or Section 129E of the Customs Act, shall not be treated as deposited under the said Section. Therefore interest amount was required to be calculated and paid on Rs.25,40,748/- (7.5% pre-deposit) only and not on the entire amount of Rs.70,00,000/- whereas while sanctioning the refund of pre-deposit interest was calculated to excess amount to the extent of Rs 44,59,252/- (Le. Rs.70,00,000/- minus Rs.25,40,748/- Rs.44,59,252/-) and was erroneously refunded. The Commissioner (Appeals) decided the appeal vide his Order in Appeal No.RPR-EXCUS-000/APP/069/20-21 dated 11.01.2021 and held that the appellant was entitled for interest only on amount of Rs.25,40,748/-, which is pre-deposit as per the Act. Accordingly show cause notice dated 12.02.2021 was issued for recovery of excess erroneously refunded interest of Rs.16,55,345/- which was adjudicated vide impugned order dated 28.02.2023 in which the adjudicating authority has ordered for recovery of Rs.16.55.345/- alongwith interest under Section 11A and Section 11AA respectively along with imposition of penalty under Section 11AC (1(1) of the Act. I find that the appellant has filed the instant appeal against the said impugned order dated 28.02.2023.

I notice that in the instant case the short issue to be decided is whether the impugned order dated 28.02.2023 confirming recovery of excess paid interest of Rs. 16,55,345/- is legally sustainable or not. In this regard, I find that the refund provisions are subject to Section 11B of the Central Excise Act, 1944. As per the Act, the interest is payable if refund is sanctioned after three months from date of application. In this regard I find that Board has issued Circular No.984/08/2014-CX dated 16.9.2014 wherein it is mentioned in para 3 of the said circular that the amount paid during investigation can be treated as pre-deposit in terms of Section 35F of the Central Excise Act. The relevant para-3 is reproduced as under:-

"Para-3 Payment mode during investigation

3.1. Payment mode during the course of investigation or audit, prior to the date on which appeal is filed, to the extent of 7.5% or 10% subject to the limit of Rs. 10 crores, can be considered to be deposit made towards fulfillment of stipulation under Section 35F of the Central Excise Act, 1944 or Section 1291 of the Customs Act, 1962. Any shortfall from the amount stipulated under these sections shall have to be paid before filing of appeal before the Appellate authority. As a corollary, amounts paid over and above the amounts stipulated under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962, shall not be treated as deposit under the said sections.

3.2. Since the amount paid during investigation audit takes the colour of deposit under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962, only when the appeal is filed the date of filing of appeal shall be deemed to be the date of deposit made in terms of the said sections

3.3. In case of any short-payment of the amount stipulated under Section 35F of the Central Excise Act, 1944 or Section 129E of the Customs Act, 1962, the appeal filed by the appellant is liable for rejection

9.1. Further, Section 35F makes it mandatory to pay 7.5% or 10% of the confirmed amount as a duty to file an appeal before the respective appellate authority. The circular has clarified that any amount paid in excess of mandatory deposit during investigation shall not be treated as pre-deposit for the purpose of Section 35FF of the Act. As per this Section the interest has to be paid on refund of pre-deposit from date of payment of such amount till the date of refund. Therefore, the interest is payable only for pre-deposit from the date of payment. However, for the remaining amount which is paid during investigation, the interest is payable only after three months from the date of application in terms of Section 11B of Central Excise Act, 1944. Reliance is placed on the following judgments:-

(i) 2019 (366) ELT 139 (Tri. Ahmd.) Ratnamai Metals & Tubes Vs. Commr of C.Ex. & ST. Ahmedabad-III-Interest Refund of amount paid during investigations-Duty vis-à-vis

Relevant date for interest-There is no provision under Central Excise law to call amount paid during investigations as "Deposit Amount so paid is towards probable "Duty" liability only Further, in adjudication order same is appropriated as duty only Thus in case said amount requires to be refunded after adjudication, provisions of Section 11B of Central Excise Act, 1944 would be applicable and for interest on delayed refund, provisions of Section 11BB ibid would be applicable Accordingly date of filing refund claim is relevant date for computation of interest if made after 3 months and not date of making deposit-Section 118 and 11BB of the Central Excise Act, 1944 (para-5).

(ii) 2011 (270) ELT 73 (AP) Kanyaka Parameshwari Engineering Ltd. Vs. Commr. Of Cus & Central Excise-interest on delayed refund-relevant date-duty paid under protest as price not finalized then refund claims filed after price finalized and Commissioner (Appeals) allowed refund CESTAT holding that interest payable only from date after expiry of three months from refund claim till the date of refund-Assessee's submission that since duty paid under protest, interest payable from date of payment-Held: Apex Court in Shreeji Colour Chem Inds. (2008 (230) ELT 199 (SC) held that if claim of interest is on equitable grounds, a written demand therefore is imperative Payment of interest hence to be made in accordance with Section 11BB of Central Excise Act, 1944 from date of expiry of three months from date of applicable for such interest till the date of refund Tribunal order upheld. (para 10,11).

10, Thus, from the above it is clear that after amendment to Section 35F of the Act, where payment of a certain percentage of confirmed amount is made mandatory to file appeal, only such amount is treated as pre-deposit, even if it was paid during investigation. If refund has to be sanctioned, only such amount has to be treated as pre-deposit and interest has to be paid from the date of payment of such pre-deposit. For the rest of the amount the interest provision is applicable only when there is delay in sectioning the refund for more than three months from date of refund in the impugned order not find any infirmity application. Therefore, I do No.04/DC/CEX/Raipur-II/2022-23 dated 28.02.2023 passed by the adjudicating authority confirming recovery of excess paid interest to the tune of Rs. 16,55,345/-, Held accordingly."

3. Considered.

4. Apart from various case law cited by the appellants during course of hearing as per time granted, further decisions have been furnished cited as below:

- Team HR Services Private Limited 2020 (6) TMI 342- Delhi High Court in which Hon'ble High Court granted interest from the date of deposit of amount during investigation till its payment.

- Commissioner of Customs Vs DD International Pvt. Ltd. 2023 (12) TMI 1340- Delhi High Court in which proposition that interest is payable on date of deposit till its payment was accepted not having been challenged by the Department.
- Commissioner of Customs Exports (ICD TKD Vs S.S. Automative Pvt Ltd. 2022 (11) TMI 1553 – Delhi High Court, similar decision was also taken and also decision of Ebiz.com Pvt. Ltd. 2016 (9) TMI 1405- Allahabad High Court, also follows the same ruling.

It is thus clear that the party is entitled to interest from the date of making deposit which was properly paid to them from the date of deposit and the same could not have been recovered from them in view of various case law quoted by the appellant. In fact, as distinguished from erroneous refund which is governed by the provisions of Section 11B of the Central Excise Act, 1944 it is by now a trite law that deposits stand on a different footing since the same are not by way of any tax but are mere deposits on which department cannot have any beneficial interest till the time, same are vested in the department by any appropriation. In case there is deposit made and through any adjudication process is held to be not payable to the department, then the department has to return the same with interest. Various case laws indicated by the appellant support this position. This court, therefore, rejects the contention of the department that interest would not have been payable on any deposit during investigation or made for the purposes of mandatory deposit. The underlying principle is that the same was required to be refunded from the date of payment and the interest as has been laid down in the proposition by the Hon'ble Delhi High Court as well. Same was required to be paid from the date of deposit to the date of paying back. It is thus clear that there is no erroneous payment of interest to the appellant and therefore, there cannot be any recovery proceedings or penalty proceedings for the same. Appeal is therefore, allowed with consequential relief.

(Order pronounced in the open court on **19.11.2025**)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Neha