CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH

Excise Appeal No. 51250 Of 2025

(Arising out of Order-in-Appeal No. 630(GS)ST/JPR/2024 dated 07.03.2025 passed by the Commissioner (Appeals), Central ExciseAnd Central Goods And Service Tax, Jaipur)

M/s Continental Engines Pvt. Ltd. **....Appellant**
(Machine Division), A-88, RIICO Industrial Area,
Bhiwadi, Distt. Alwar- 301019

Versus

The Commissioner (Appeals), **....Respondent**
GST & Central Excise, Jaipur
NCRB, Statue Circle, Jaipur

APPEARANCE:

Shri Priyesh Kasliwal, Advocate for the Appellant
Shri Rohit Issar,Authorised Representative of the Department

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

DATE OF HEARING/ DECISION: April 01, 2026

FINAL ORDER NO. 50646/2026

S.K. MOHANTY:

This appeal is directed against the impugned order dated 07.03.2025 passed by the learned Commissioner (Appeals), Central Excise and CGST, Jaipur. The grievance of the appellant in this appeal is that though the pre-deposit amount was returned by the department along with interest, but the request of the appellant for payment of interest for the period from 07.08.2017 to 07.02.2023 was not considered by the authorities. The appellant has stated that the interest amount claimed for the said period i.e., from 07.08.2017 to 07.02.2023 was in the nature of compensation, which should be paid by the revenue, irrespective of the fact that the interest amount of Rs.

64,62,575/- had already been paid by the department on account of delayed refund of the pre-deposited amount.

2. Learned advocate appearing for the appellant submitted that the pre-deposit made by the appellant under Section 35F of the Central Excise Act, 1944 (for short, 'The Act of 1944') was refunded by the department on 07.08.2017, pursuant to the order of the Tribunal and the department had paid interest up to the period 07.02.2023. However, he submitted that since the department did not returned the pre-deposit immediately and took time up to almost six years for sanctioning the interest amount, the appellant should be entitled for the compensation for such delayed payment of the interest amount. He further submitted that the authorities below have travelled beyond the scope of the order dated 10.05.2022 of the Tribunal and as such, the orders passed by the lower authorities cannot be sustained on such grounds. He also submitted that the Tribunal order dated 10.05.2022 has attained finality and thus, the appellant should be entitled for the benefit or further interest (compensation) up to the period of 07.02.2023. To substantiate such stand, learned advocate has relied upon the following judgments delivered by the judicial forum:

(i) **Sandvik Asia Ltd.** vs. **Commissioner of Income Tax-I, Pune**[1]

(ii) **Commissioner of Income Tax** vs. **Narendra Doshi**[2]

(iii) **Shri Jagdamba Polymers Ltd.** vs. **Union of India**[3]

(iv) **Umang Agrawal** vs. **Commissioner of Income Tax (Central Circle) and ors.**[4]

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1. 2006 (196) E.L.T. 257 (S.C.)
2. Appeal (Civil) 2053 of 2000 decided on 26.07.2001
3. 2013 (289) E.L.T. 429 (Guj.)
4. Writ Tax No. 1202 of 2007 decided on 06.05.2015

(v) **Panasonic Energy India Co. Ltd.** vs.**Commr. Of C.Ex., Vadodra-II**[5]

3. On the other hand, learned DR appearing for the revenue submitted that while sanctioning the refund of pre-deposit alongwith interest, the department had referred to the provisions of Section 35FF of the Act of 1944 and since under such statutory provisions, the interest is required to be paid from the date of payment of the amount till, the date of the refund of such amount, the additional interest claim made by the appellant, considering the same as compensatory in nature, cannot be sustained. He further submitted that since the Central Excise statue do not provide for payment of any interest on the compassionate ground, the department's stand is proper and justified in denying such additional amount of compensation as claimed by the appellant.

4. Heard both sides and perused the case records.

5. During the course of hearing of appeal, learned advocate appearing for the appellant submitted a date chart, explaining the sequence of events taken place between initial passing of the adjudication order and subsequent grant of interest by the department. The said chart submitted by the appellant is extracted herein below:

S No.	Action		Date
1	Order-In-original	45-46/2005 116/2005 32/2006 15-16/2008	30.03.2005, 29.12.2005, 05.09.2006 26.02.2008
2	Commissioner (A) order	For non making of pre-deposit payment of Rs. 10 Lakhs in terms of section 35F dismissed the appeal of OIO No. 116/2005	27.12.2006

5. 2018(12) G.S.T.L. 180 (Tri.-Ahmd)

3	CESTAT order (remand for pre-deposit)	Since, the Appellant made the payment of pre deposit of Rs. 10 Lakhs on 08.05.2007 CESTAT remand the matter to decide on merits and thereafter, the assessee made the pre-deposit of Rs. 60 Lakhs in all the pending appeals as mentioned challan details in CESTAT order dated 10.05.2022 (Pg 4 internal page of CESTAT order)	09.05.2007
4	Commissioner (A)	Decided vide OIA No. 16-18(RKS)CE-NR-1/2008 AND No. 223(DK)CE/JPR-I/2008	24.01.2008, 24.11.2008
5	CESTAT (remand for differential duty)	CESTAT remand the matter back and allowed the appeal.	09.01.2017
6	Filed the Refund application.	Appellant filed the consequential refund application of Rs. 60 Lakhs alongwith interest	08.05.2017
7	Order-in-original (refund)	Adjudicating authority only sanctioned the refund of Rs. 60 Lakhs and not provided the interest on Rs. 60 Lakhs in 2017.	07.08.2017
8	Commissioner (A) (remand for interest)	Remand.	26.11.2018
9	Order-in-original	rejected	20.12.2019
10	Commissioner (A)	Allowed the appeal and only granted interest @6% from 07.02.2017 till the date of refund that is 07.08.2017.	26.02.2021
11	CESTAT (allowed 12% interest)	CESTAT considered both aspect Section 35FF and Sandvik Asia (SC Judgment) and directed the authority to make the payment of interest @12% from the date of Deposit on 10.05.2022	10.05.2022
12	Order-in-original	The authority granted interest of RS. 64,62,575/- only from the date of pre-deposit upto CESTAT order I.e. 09.1.2017 @12% and disobey the direction of CESTAT dated 10.05.2022	09.01.2023
13	Order in Appeal	Assessee further appeal for interest @12% as per the direction of the CESTAT upto 07.02.2023 and Commissioner Appeal only granted further interest of 12% upto the date of original refund sanctioned i.e. from 09.01.2017 till 07.08.2017.	07.03.2025

14	CESTAT	Filed the appeal in the CESTAT against OIA dated 07.03.2025 for the period **07.08.2017 till 07.02.2023**	Pending filed in July 2025
15	OIO (new outcome)	Granted interest of Rs. 4,12,274/- for the period of 09.01.2017 till 07.08.2017 @ 12%.	15.01.2026

6. It is an admitted fact on record that during the period from 08.05.2007 to 01.10.2008, the appellant had made the pre-deposit under Section 35F of the Act of 1944 for filing/entertainment of the appeal by the appellate forum; that the appeals filed by the appellant was favorably considered by the appellate authorities, pursuant to which the department had sanctioned the refund of pre-deposit made by the appellant on 07.08.2017. Further, it transpires from the case records that the interest amount was also paid by the department on 07.02.2023. However, the appellant had claimed the interest amount from 07.08.2017 (date of sanction of the refund amount) up to the period 07.02.2023. Insofar as the issue of payment of interest on delayed refund of amount deposited under Section 35F *ibid* is concerned, Section 35FF *ibid* provides that an assessee-appellant should be entitled for interest at the prescribed rate from the date of payment of the amount, till the date of refund of such amount. The statutory provision contained in Section 35FF of the Act of 1944 is quoted below:

> "**35FF.Interest on delayed refund of amount deposited under section 35F**
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> Where an amount deposited by the appellant under section 35F is required to be refunded consequent upon the order of the appellate authority, there shall be paid to the appellant interest at such rate, not below five per cent. and not exceeding thirty-sixper cent. per annum as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such amount from the date

> of payment of the amount till, the date of refund of such amount:
>
> PROVIDED that the amount deposited under section 35F, prior to the commencement of the Finance (No. 2) Act, 2014, shall continue to be governed by the provisions of section 35FF as it stood before the commencement of the said Act."

7. On reading of the above quoted statutory provision, it would transpire that the statue in clear and unambiguous terms has provided that for delayed refund of the pre-deposit amount, the assessee-appellant should be entitled for claim of interest from the date of payment of the pre-deposit amount, till the date of actual refund of the said amount. In the case in hand, it is an undisputed fact that the pre-deposit made by the appellant during the period from 08.05.2007 to 01.10.2008 was ultimately sanctioned by the department on 07.08.2017 and the interest attributable on such deposited amount was also paid up to such date i.e., 07.08.2017.

8. On reading of the orders passed by the lower authorities vis-à-vis the statutory provision contained in Section 35FF of the Act of 1944, I am of the view that upon true interpretation of the provision contained in the Central Excise statue, the original authority had refunded both the pre-deposit amount as well as paid the interest attributable to such amount up to the period 07.08.2017 i.e., the date of actual sanction of the refund amount.

9. The appellant had claimed that it should be entitled for the interest for the period from 07.08.2017 to 07.02.2023. On careful reading of the provisions of 35FF *ibid*, it would transpire that the said statutory provision has been duly complied with by the department inasmuch as they had refunded the pre-deposit amount and also paid the interest on such delayed refund up to the period of actual grant of the refund benefit. However, the appellant has claimed that it should

be entitled for interest up to the period of 07.02.2023, which is in the nature of 'compensation by way of payment of interest'. To substantiate such stand, the above quoted judgments were referred to by the appellant.

10. In case of **Sandvik Asia Ltd.(supra)**, the delayed payment of amount of interest was considered under Section 244A of the Income Tax Act, 1961. It has been provided in the said statue that where refund of any amount becomes due to the assessee under the Income Tax Act, 1961, then he shall, subject to the provisions of the said section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the manner prescribed.

11. Reading of Section 244A *ibid*, makes the position amply clear that if the refund amount is due to the assessee, if not paid within the stipulated time, then in addition to such amount, the assessee should be entitled to interest. Applicability of the provisions under Section 244A *ibid* is entirely in a different footing inasmuch as the effect of non-payment of pre-deposit amount and subsequent payment of interest as envisaged under Section 35FF of the Act of 1944 was not the subject matter, dealt with in the said Income Tax statue. Since, 35FF *ibid* clearly provides for payment of interest on delayed refund of the pre-deposit amount, the provision of Section 244A *ibid* cannot straightaway be applied for deciding the present appeal differently. Therefore, reliance placed by the learned advocate on the judgment of Hon'ble Supreme Court in the case of **Sandvik Asia Ltd. (supra)** is distinguishable from the facts of the present case. Even assuming that the provision of Section 244A *ibid* is *pari materia* with the provision under Section 35FF of the Act of 1944, then also interest in the nature of compensation, as claimed by the appellant cannot be considered, as per the judgment of Larger Bench of the Supreme Court in the case of

Commissioner of Income Tax, Gujarat vs. **Gujarat Fluoro Chemicals**[6] reported in 2013. While referring to the question framed, the Larger Bench of Hon'ble Supreme Court have clarified that '*it is only that interest provided for under the statue which may be claimed by an assessee from the Revenue and no other interest on such statutory interest'* should be considered.

12. The ratio of the judgment in the case of **Narendra Doshi (supra)** would not be applicable in case of the appellant, in view of the judgment delivered in the case of **Gujarat Fluoro Chemicals (supra)**. Similarly, the other judgments relied upon by the appellant in the case of **Jagdamba Polymers Ltd. (supra)** and **Umang Agrawal (supra)** are also distinguishable from the facts of the present case of the appellant inasmuch as the provisions of Section 35FF of the Act of 1944 was not the subject matter of dispute in those decided cases.

13. In view of the foregoing discussions and analysis, I do not find any infirmity in the impugned order dated 07.03.2025 passed by the learned Commissioner (Appeals), in restricting payment of interest up to the period 07.08.2017. Therefore, I do not find any merits in the appeal filed by the appellant. Accordingly, the same is dismissed.

(Order dictated in the Open Court)

(S.K. MOHANTY)
MEMBER(JUDICIAL)

Kritika

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6. 296 E.L.T. 433 (S.C.)