IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing: 23.5.2018
Date of Pronouncement: 28.52018

Appeal No. E/50404/2018-SM

(Arising out of Order-in-Appeal No. 255-CE-APPL-I-NORTH-2017 dated 14.11.2017 passed by the Commissioner (Appeals-I), Central Excise, New Delhi)

M/s Havells India Ltd. — Appellant

Vs.

CCE & ST-LTU, Delhi — Respondent

Appearance

On merits. - for the appellant

Shri P. Junega, D.R. - for the respondent

CORAM: **Hon'ble Mr. Bijay Kumar, Member (Technical)**

Final Order No. 52025/2018

Per Bijay Kumar :

None appeared on behalf of the appellant. The appellant had made a request to decide the appeal on merits. Heard ld. DR.

2. This appeal is directed against the impugned order passed by the Commissioner (Appeals), Customs & Central Excise, New Delhi. In the impugned order, the Commissioner (Appeals) has held that the appellants are eligible for payment of interest for period after 1.2.2017 to 1.5.2017 on the basis of provisions contained in Section 11BB of Central Excise Act, 1944, holding that the interest will be

accruable beyond three months period from the date of application of such refund. It is seen from the record of the case that the appellant had filed application for claim of refund on 2.11.2016 and amended application on 8.3.2017.

3. The grievance of the appellant is that the refund has not been sanctioned from the date of sanctioning of refund vide the following refund orders:

Refund Order No. & date	**File No.**	**Amount recovered (in Rs.)**
551-R dated 6.7.2009	V(87)18/REF/230/2008/3001	4,82,881
552-R dated 6.7.2009	V(87)18/REF/231/2008/2996	4,85,586
R-553 dated 6.7.2009	V(87)18/REF/232/2008/3006	3,26,674
R-554 dated 6.7.2009	V(87)18/REF/233/2008/3011	2,94,206
674-R dated 30.10.2009	V(87)18/REF/225/2009	4,84,254
685-R dated 18.11.2009	V(87)18/REF/226/2009/6165	4,81,585
686-R dated 17.11.2009	V(87)18/REF/228/2008/6170	4,89,554
689-R dated 25.11.2009	V(87)18/REF/227/2009/6254	5,60,875
702-R dated 30.11.2009	V(87)18/REF/231/2009	85,915
	Total amount recovered	**36,91,530/-**

These refunds have been passed by the refund sanctioning authority and same was adjusted against the confirmed demand vide Order-in-Original No. 16/JC/D-I/2007 dated 28.2.2007 by the Joint Commissioner of Central Excise, Delhi-I. It is the grievance of the appellant is that before expiry of their period of appeal, the demand was enforced which is contrary to the CBEC circular itself. From the order-in-original against which the impugned order has been passed has not considered the refund beyond the period 1.2.2017. It is seen from the case record that the amount of refund has been appropriated by the refund sanctioning authority on the various dates as indicated in table herein above. This aspect has not been considered by the adjudicating authority as to why the refund for this period is not applicable to the appellant. I, therefore, remand the matter to the original adjudicating authority and considered the grievance of appellant for the eligibility of the refund as claimed by the appellant after giving reasonable opportunity of hearing and decide the claim of refund as per law and CBEC Circular No. 984/08/2014-CX. dated 16.9.2014.

4. In view of above, appeal is allowed by way of remand.

(Pronounced in Court on 28.5.2018)

(Bijay Kumar)
Member (Technical)

RM