CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD

Division Bench – Court No. – I

Customs Appeal No. 23548 of 2014
(Arising out of Order-in-Appeal No. 17/2014-15 (H-II) Cus dt.30.07.2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals-II), Hyderabad)

M/s International Advanced Research Centre for Powder Mettalurgy & New Materials ......**Appellant**
Balapur PO, Hyderabad,
Telangana – 500 005

VERSUS

Commissioner of Customs
Hyderabad - Customs ......**Respondent**
GST Bhavan, LB Stadium Road,
Basheerbagh, Hyderabad – 500 004

Appearance
None for the Appellant.
Shri A. Rangadham, AR for the Respondent.

Coram: **HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30349/2026

Date of Hearing: 08.07.2026
Date of Decision: 08.07.2026

[Order per: P. ANJANI KUMAR]

None appeared on behalf of the Appellant. On going through the records of the case, it appears that vide Daily Order dt.29.06.2026, it was directed that the case be listed on 08.07.2026 and that no further opportunities for hearing will be given and the issue may be decided on merits based on available record. Accordingly, we proceed to decide the case on merits. Therefore, heard learned AR for the Revenue and perused the records of the case.

2. The brief facts of the case are that the appellant, M/s International Advanced Research Centre for Powder Mettalurgy & New Materials, have imported various capital goods and spares during the period June, 2008 to December, 2009. During the course of audit conducted by C&AG, the appellants have come to know that they were not required to pay the

Additional Duty of Customs (SAD) @ 4% under section 3(5) of the Customs Tariff Act, 1975. Accordingly, the appellants have written a letter dt.19.06.2013, which was received in the office of the Commissioner of Central Excise on 18.08.2013. However, the same was found to be not accompanied by the documentary evidence in support of the claim of the appellant and a CA certificate, as required. Therefore, the aspect of unjust enrichment could not be verified. Accordingly, the refund claim was rejected, vide OIO dt.26.03.2014, on the issue of limitation. On an appeal, Commissioner (Appeals), vide Impugned Order dt.30.07.2014, upheld the OIO rejecting the refund claim. Hence, this appeal.

3. The issue involved in the present case is whether the appellants are eligible for refund of SAD paid on the goods imported when refund application is filed after a lapse of more than three years.

4. Learned AR submits that the refund claim filed by the appellant suffers from the following infirmities.

(i) The refund application was filed after expiry of stipulated period of one year from the date of payment of duty in terms of section 27 of the Customs Act, 1962.

(ii) No order pertaining to assessment of imported goods was filed in support of the refund claim.

(iii) Refund application was filed in the form of a letter and not in the prescribed format.

(iv) A certificate by CA evidencing that the duty paid by the appellant was not passed on to their customers/buyers was not enclosed.

5. Learned AR further submits that the issue is no longer res integra and has been decided in favour of the Revenue by the Larger Bench of the Tribunal in the case of Oil & Natural Gas Corporation Ltd Vs GST & CE, Tiruchirapalli [20214 (6) TMI 1417 – CESTAT Chennai (LB)].

6. We find that admittedly, the refund application was filed after a lapse of the period specified under section 27 of the Customs Act, 1962. No formal refund claim was filed with all the required annexures. However, even if we consider that the same is procedural, we find that the Larger Bench of the Tribunal in the case of Oil & Natural Gas Corporation Ltd Vs GST & CE, Tiruchirapalli (supra) after analyzing all the relevant judgments in this

regard and the decision of Hon'ble Apex Court in the case of Mafatlal Industries Ltd Vs UOI [1996 (12) TMI 50 – SC], held as follows:

> *"74. This inference is further strengthened from the observation of the Hon'ble Supreme Court in interpreting the term 'law' appearing at Article 265 of the Constitution of India. Their Lordships held that the provisions of the enactments including Section 11B of the Central Excise & Salt Act, 1944 and Section 27 of the Customs Act, 1962 do constitute 'law' within the meaning of Article 265 of the Constitution of India and hence any tax collected, retained or not refunded in accordance with the said provisions must be held to be collected, retained or not refunded as the case may be, under the authority of law. In other words, all 'illegal levy' are held to be collected without authority of law and to be refunded as prescribed under Section 11B of the Central Excise Act, 1944 and Section 27 of Customs Act, 1962. Further, it is very clearly laid down by the Hon'ble Apex Court that all refund claims except that of unconstitutional levy had to be and must be filed and adjudicated under the provisions of the Central Excise & Salt Act or the Customs Act, as the case may be. Further it is laid down that these acts provide a complete mechanism for correcting any errors whether of fact or law and that not only an appeal is provided to the Tribunal which is not a departmental organization, but to this court which is a civil court."*

7. In view of the above, we find that the appeal is devoid of merit. Hence, the appeal is dismissed.

(Operative Part of the Order was pronounced in the Open Court)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Veda