IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

Excise Appeal No. 172 of 2010

(Arising out of Order-in-Appeal No. 11-12/KOL-VI/2009 dated 19.11.2009 passed by Commissioner (Appeals), Central Excise, Kolkata-II)

M/s Castrol India Limited,
P-7, Paharpur Siding Road,
Kolkata-700088.

..Appellant

VERSUS

Commissioner of Central Excise, Kolkata-VI.
180, Shantipally, 6th Floor, Rajdanga Main Road,
Kolkata-700107.

.. ...**Respondent**

APPERANCE :

Shri Rajeev Agarwal, Advocate for the Appellant
Shri S. Mukhopadhyay, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. P.K. CHOUDHARY MEMBER (JUDICIAL)
HON'BLE MR. RAJEEV TANDON MEMBER (TECHNICAL)

FINAL ORDER No...75266/2023

DATE OF HEARING : 03.03.2023
DATE OF DECISION : 03.03.2023

PER P.K. Choudhary :

The present appeal has been filed by M/s. Castrol India Limited against Order-in-Appeal No. 11-12/KOL-VI/2009 dated 19.11.2009 whereby the appellants claim on account of "Interest on Receivables" has been disallowed by the Ld. Commissioner (Appeals), Central Excise, Kolkata-II for the period January 1996 to December 2004. Vide the impugned Order, the Ld. Commissioner (Appeals) has upheld the view taken by the Ld. Deputy Commissioner, Central Excise to disallow deduction in respect of "Interest on Receivables" vide Order No. 01/DC/Taratala-IV/Kol-VI/2007 dated 10.08.2007 while finalizing provisional assessment.

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2. Sri Rajeev Kumar Agarwal, Advocate, appeared for the appellant and Sri S. Mukhopadhyay, Ld. A/R, appeared for the Revenue. We have heard both the sides and perused the appeal records.

3. We find that the Ld. Commissioner (Appeals) in para 14-18 of the impugned order has relied on the decision rendered by the Tribunal in appellant's own case, reported as **Castrol India Ltd. vs. CCE, Chennai 2007 (216) E.L.T. 30 (Tri. Chennai)**, wherein it has been held that the assessee is not entitled to claim deduction on account of "Interest on Receivables". Based on the said findings of the Chennai Bench, the said deduction has been denied to the appellant herein.

4. We further find that the assessee i.e., Castrol India Limited, has preferred an appeal before the Hon'ble Supreme Court against the above decision of the Tribunal wherein the Hon'ble Supreme Court has held that the assessee is legally entitled to claim the deduction on account of "interest on Receivables". The relevant portion of the observations made by the Hon'ble Supreme Court, as reported in **2015 (326) E.L.T. 420 (S.C.),** is reproduced herein below:

> *"7. A perusal of the order of the Tribunal would reflect that after examining the invoices which were produced on record by the assessee, on such invoices, unit price of given commodity shown in the Cash on Delivery (CoD) invoice is less by 1.75 per cent of the unit price of the same goods shown in the credit sale invoice. From this, the Tribunal concluded that the price mentioned in the credit sale invoice for a given product is the normal price and the one mentioned in the CoD invoice is the discounted price. Further, according to the Tribunal, none of these credit sale invoices indicate any claim of interest on receivables. On that basis, finding is arrived at to the effect that the assessee has not been able to establish that the price charged on the goods sold to the customers on credit basis contained an element of interest inbuilt therein and since there is no evidence of such interest having been separately recovered by the assessee from the customers, the assessee was not entitled to claim any deduction*

of any "interest on receivables" from sale price for the purpose of determining the assessable value of the said goods.

8. After going through the records with the assistance of the learned counsel for the parties, we feel that the aforesaid conclusions arrived at by the Tribunal are contrary to the record and, thus, perverse.

9. The Tribunal has, itself, in paragraph 4 of the impugned order, mentioned that the price charged in the invoices for sales on credit terms are of WHEEL BEARING GR 88 and ALL PURPOSE GRS 88 as Rs. 68.00 and Rs. 69.50 respectively. On the other hand, price charged in invoices for cash sales was Rs. 66.81 and Rs. 68.28 respectively.

10. The Tribunal itself, after mentioning those prices, failed to notice that the difference between price charged on credit terms and cash sales was to the extent of 1.75 per cent, which was nothing but cash discount. For the sake of convenience, we demonstrate the same as under :-

Details of the invoices considered by the Tribunal	*WHEEL BEARING GR 88*	*ALL PURPOSE GRS 88*
Prices charged in invoices for sales on credit terms	*Rs. 68.00*	*Rs. 69.50*
Prices charged in invoices for cash sales		
Cash Discount of 1.75% deducted from credit price	*Rs. 1.19*	*Rs. 1.22*
Cash prices charged in invoices for cash sales	*Rs. 66.81*	*Rs. 68.28*

11. Thus, in the invoices for sales on credit terms, interest for the credit period was in built in the credit price.

12. We, thus, allow these appeals and thereby set aside the order of the authorities below and quash the demand.

13. The appellant shall also be entitled to consequential relief of refund of the differential amount paid by it to the Revenue."

5. In view of the above, we find that the issue with regard to the entitlement of the Appellant to claim "Interest on Receivables" is no longer *res-integra* and stands decided in their favour by the Hon'ble Supreme Court. Therefore, the impugned Order-in-Appeal dated 19.11.2009 disallowing the deduction on account of 'Interest on Receivables' cannot be legally sustained and is therefore, set aside.

6. The appeal is thus allowed by way of remand to the jurisdictional Assistant Commissioner for limited purpose of quantification. Since the issue pertains to the past period, we direct that the Ld. Assistant Commissioner shall endeavor to pass the order within a period of six months from the date of receipt of this order. The appeal is thus disposed of in the manner as stated above.

(Dictated and pronounced in the open court)

Sd/-
(P. K. Choudhary)
Member (Judicial)

Sd/-

(Rajeev Tandon)
Member (Technical)

T.K.