

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE  
TRIBUNAL, KOLKATA  
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.1

**Excise Appeal No.195 of 2011**

(Arising out of Order-in-Original No.73/Commr./CE/BOL/10 dated 15.12.2010 passed by Commissioner of Central Excise, Bolpur.)

**M/s. SAIL, Alloys Steel Plant**

(Durgapur, Dist.-Burdwan, West Bengal, Pin-713208.)

**...Appellant**

*VERSUS*

**Commissioner of Central Excise, Bolpur**

**.....Respondent**

(Nanoor Chandidas Road, Sian, Bolpur, Dist: Birbhum, West Bengal.)

**APPEARANCE**

Shri Deepto Sen & Shri Dipankar Majumdar, both Advocates for the Appellant (s)

Shri Mihir Ranjan, Special Counsel for the Revenue

**CORAM: HON'BLE SHRI ASHOK JINDAL, MEMBER(JUDICIAL)**

**HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)**

**FINAL ORDER NO. 75775/2023**

DATE OF HEARING : 19 June 2023

DATE OF DECISION : 19 June 2023

**Per : ASHOK JINDAL :**

The appellant is in appeal for demand of interest for the period July 2005 to December 2009 by issuance of the show cause notice dated 21.07.2010 on duty paid by way of supplementary invoices.

2. The facts of the case are that the appellant is manufacturing steel items and during the relevant period the appellant has issued supplementary invoices and paid duty thereon. The said fact was shown by the appellant for their periodical ER-1 returns. The same has been accepted by the Revenue. After the decision of the Hon'ble Apex Court in the case of CCE, Pune v. SKF India Ltd. [2009 (239) ELT 385 (SC)], wherein it has been held that for the duty paid on the strength of

supplementary invoices, the assessee is liable to pay interest for the intervening period. Thereafter on 21.07.2010, a show cause notice was issued to the appellant by invoking the extended period of limitation for demand of interest of duty paid on the strength of supplementary invoices for the period July 2005 to December 2009. By way of impugned order, the demand of interest was confirmed. Against the said order, the appellant is before us.

3. The Ld.Counsel for the appellant submits that as the demand of interest has been raised by invoking extended period of limitation whereas the payment of duty on the strength of supplementary invoices was well within the knowledge of the department well in advance at the time of filing of ER-1 returns in that circumstances, the demand of extended period of limitation is not sustainable and for the demand within the period of limitation they have already paid the interest. Therefore, he sought disposal of the appeal.

4. On the other hand, the Ld.Special Counsel for the department submits that it is an admitted fact that the appellant has not paid interest on duty paid on the strength of supplementary invoices which was required to be paid as held by the Hon'ble Apex Court in the case of CCE, Pune v. SKF India Ltd. (supra), therefore, the appellant is required to pay interest.

5. Heard the parties.

6. Considering the fact that payment of duty on the strength of supplementary invoices was well within the knowledge of the department at the time of filing of ER-1 return showing payment of duty on the strength of supplementary invoices, in that circumstances, we hold that extended period of limitation is not invocable in the facts and circumstances of this case. Therefore, the demand of interest beyond the normal period of limitation is set aside.

7. We further take note of the fact that the demand of interest within the period of limitation, the appellant has already paid, therefore, nothing survives. Hence, the demand of payment of interest within the period of limitation is confirmed.

8. In view of the above, the appeal is disposed of.

(Operative part of the order was pronounced in the open Court.)

Sd/  
**(ASHOK JINDAL)**  
**MEMBER (JUDICIAL)**

Sd/  
**(K. ANPAZHAKAN)**  
**MEMBER (TECHNICAL)**

**sm**