

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

REGIONAL BENCH – COURT NO.2

**Service Tax Appeal No. 77426 of 2018**

(Arising out of Order-in-Appeal No.64/S.Tax-II/Kol/2018 Dated 06.02.2018 passed by Commissioner of CGST & Central Excise (Appeal-I), Kolkata.)

**M/s. National Insurance Company**

(No. 3, Middleton Street, Kolkata-700071)

**Appellant**

*VERSUS*

**Commissioner of CGST & Central Excise, Kolkata South  
Commissionerate**

(GST Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107)

**Respondent**

**APPEARANCE :**

Ms Ashwini Chandrasekaran, Advocate, Ms Prity Agarwal CA & Ms. Heena CA, for the Appellant

Mr. S. S. Chattopadhyay, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)**

**FINAL ORDER NO.76055/2023**

Date of Hearing : 11 July 2023

Date of Decision : 11 July 2023

**PER R. MURALIDHAR**

The Appellant is aggrieved by the OIA passed by the Commissioner (Appeals), wherein he has set aside the assessment Order No. V(15)13/NIC/R-8/D-III/ST/KOL/10-11 dated 27.03.2012 dated passed by the Assistant Commissioner and remanded the matter to the Adjudicating Authority to consider afresh all the points made by the Appellant before him.

2. The Learned Advocate appearing on behalf of the Appellant submits that when the Service Tax liability has been discharged even before the finalization of the provisional assessment, there is no liability to pay the interest in terms of Section 11 AB of the CEA, 1994 read with Section 75 of the Finance Act, 1994. She also cites Rule 7 of the Central Excise Rules, 2002, which stood till 01/03/2016 which would be applicable in this case. She cites the case law of CEAT Ltd. Vs CCE & Cus. Nasik-2015 (317) ELT 192 (Bombay High Court) wherein it has been held that interest is not payable if the amount is paid before the

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finalization of provisionally assessed Return. She prays that the issue may be decided here.

3. The Learned AR submits that the Commissioner (Appeals) has remanded the matter to the Adjudicating Authority with his detailed findings as reflected at Paras 5.1 to 6 of the OIA. He submits that several issues of verification and quantification are also involved. As the matter has been remanded to the Adjudicating Authority, the Appellant should be directed to approach him for finalization of their provisionally assessed ST-3 Returns since the earlier finalization order has been set aside by the Commissioner (Appeals).

4. Heard both sides and perused the documents.

5. It is seen from the OIA that the Commissioner (Appeals) has gone through all the submissions made before him and has passed a considered decision remanding the matter to the Adjudicating Authority to re-quantify the amounts based on the factual evidence to be produced by the Appellant. Therefore, I do not see any reason to interfere with the Order passed by the Commissioner (Appeals).

6. Accordingly, I remand the matter to the Adjudicating Authority to go through the observations made by the Commissioner (Appeals) while taking up this matter on denovo basis. Apart from this, the Appellant would also be eligible to make all their points on their submissions that no interest is liable to be paid when the amounts are paid prior to the finalization of the Returns before the Adjudicating Authority. He will pass a considered order by following the principles of natural justice within four months from the date of receipt of this Order.

(Dictated and pronounced in the open court.)

Sd/-

**(R. Muralidhar)**  
**Member (Judicial)**

Pooja