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

REGIONAL BENCH – COURT NO.1

<u>Excise Appeal No.78705 of 2018</u>
(On behalf of Appellant)

(Arising out of Order-in-Appeal No.121/HWH/XAP-228/2017-18 dated 23.04.2018 passed by Commissioner (Appeals) of CGST & Excise, Kolkata North)

M/s Nipha Steels Limited
(48, Ganga Jumuna, 28/1, Shakespeare Sarani, Kolkata-700017)

Appellant

VERSUS

Commissioner of CGST & Excise, Howrah
15/1, Strand Road, Kolkata-700001

Respondent

<u>APPERANCE :</u>

Shri S.P.Siddhanta, Consultant for the Appellant
Shri J.Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO.77707/2023

<u>DATE OF HEARING : 15 .12.2023</u>
<u>DATE OF DECISION : 15.12.2023</u>

<u>Per Ashok Jindal :</u>

The appellant is in appeal against the impugned order demanding interest from the date of deposit during the investigation till its realization.

2. The facts of the case are that during the investigation in the year, 1996, the appellant made a deposit of Rs.24,76,172/-. Thereafter, a show-cause notice was issued to the appellant. For demanding duty from the appellant, the same were adjudicated and the amount initially deposited during the investigation, was confirmed.

3. Later on, on appeal before this Tribunal, the matter was remanded back to the adjudicating authority, who after considering the

facts of the case and defense filed by the appellant, confirmed a part of the demand along with interest and also imposed equivalent amount of penalty.

4. After the adjudication order, the appellant filed refund claim of the excess amount paid during the course of investigation on 25.10.2013. The refund was sanctioned to the appellant on 04.11.2015, but no interest was given to the appellant.

5. The appellant by way of this appeal, demanded interest from the date of deposit till its realization. In the support of their contention, the ld.Counsel for the appellant has relied on the following case laws :

(i) Assistant Collector of Central Excise Vs. Calcutta Chemical Company Ltd. : 1992 (62) ELT 511 (Cal.) ;

(ii) Vijay Textiles Vs. Union of India : 1979 (4) ELT (J181) (Guj.) ;

(iii) Parle Agro Pvt.Ltd. Vs. Commissioner of CGST & Excise, Noida : 2022 (380) ELT 219 (Tri.-All.) ;

(iv) Binjraka Steel Tubes Ltd. Vs. CCEx., Hyd.III : 2007 (218) ELT 563 (Tri.-Bang.) ;

(v) Wimco Ltd. VS. Union of India : 1989 (43) ELT 628 (All.)

(vi) M/s Green Valley Industries Limited Vs. Commissioner of CGST & Excise, Shillong : 2022 (4) TMI 560-CESTAT-Kolkata.

6. The appellant insisted the decision of this Tribunal in the case of M/s Green Valley Industries Limited (supra) pressing that this Tribunal itself has given the interest from the date of deposit till its realization in similar set of facts. The ld.Counsel for the appellant also submits that in remand proceedings, the adjudicating authority was duty bound to follow the same within six months as per CBEC Circular No.4/2007-Cus

dated 10.01.2007. Therefore, they are also entitled to claim the interest.

7. On the other hand, the ld.A.R. for the Revenue relying on the decision of the Hon'ble Apex Court in the case of Willowood Chemicals Private Limited reported in 2022 (60) GSTL 3 (SC), submits that the interest is entitled after three months from the date of filing of refund claim till its realization.

8. We find that the said decision was not available before this Tribunal while dealing with the case of M/s Green Valley Industries Limited (supra). The order of the case of M/s Green Valley Industries Limited (supra) was passed on 11.04.2022 whereas the decision of the Hon'ble Apex Court in the case of Willowood Chemicals Private Limited (supra) is dated on 19.04.2022.

9. In that circumstances, I am duty bound to follow the decision of the Hon'ble Apex Court in the case of Willowood Chemicals Private Limited (supra). Therefore, I allow the interest to the appellant after three months from the date of filing of refund i.e. 25.10.2013 till its realization i.e. 04.11.2015.

10. With these terms, the appeal is disposed off.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

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