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

REGIONAL BENCH – COURT NO.2

Excise Appeal No. 78421 of 2018

(Arising out of Order-in-Appeal No.110/HWH/CE/2018-19 Dated 04.06.2018 passed by Commissioner of CGST & Central Excise (Appeals-II), Kolkata)

M/s. W. Hunger Hydraulics India Pvt. Ltd.
(New Plot No. 1, Poly Park, Sankrail, P.O. Dhulagori
Howrah-711302, W. B., India)

Appellant

VERSUS

Commissioner of CGST & CX, Howrah Commissionerate
(M. S. Building, Customs House, 15/1, Strand Road, Kolkata, W.B.-700001)

Respondent

With
Excise Appeal No. 78323 of 2018

(Arising out of Order-in-Appeal No.99/HWH/CE/2018-19 Dated 25.05.2018 passed by Commissioner of CGST & Central Excise (Appeals), Kolkata-II)

M/s. W. Hunger Hydraulics India Pvt. Ltd.
(New Plot No. 1, Poly Park, Sankrail, P.O. Dhulagori
Howrah-711302, W. B., India)

Appellant

VERSUS

Commissioner of CGST & CX, Howrah Commissionerate
(M. S. Building, Customs House, 15/1, Strand Road, Kolkata, W.B.-700001)

Respondent

APPEARANCE :
Mr. Gautam Banerjee, Authorized Representative for the Appellant
Mr. S. S. Chattopadhyay, Authorized Representative for the Respondent

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

FINAL ORDER NO.75446-75447/2023

Date of Hearing : 17 May 2023
Date of Decision : 17 May 2023

PER R. MURALIDHAR

Show Cause Notices were issued to the Appellants on the ground that they were filing the Returns in a delayed manner. The Adjudicating Authority after going through the facts of the case has imposed the late fee of Rs.2,24,600/- for the ER 1 Returns which were filed by the Appellant in a delayed manner during the period January 2015 to June

2016 (present Appeal No. E/78323/2018). On Appeal, the Commissioner (Appeals) has rejected their Appeal. In the case of Appeal No. E/78421/2018, the Adjudicating Authority has imposed the late fee of Rs.20,000/- and has imposed penalty of Rs.60,000 under Rule (12)(6) of Central Excise Rules, 2002. On appeal, the Commissioner (Appeals) has reduced the penalty under Rule 12(6) to 24,000/- and did not give any relief on account of the late fee of Rs.24,000/- Being aggrieved by the impugned OIAs, the Appellant is before the Tribunal.

2. Heard both sides.

3. On going through the factual details, it is seen that admittedly, the Appellant has been filing their ER 1 Returns in a delayed manner ranging from delay of 1 day to 490 days. This practice has been continued for 14 months in Appeal No. E/78323/2018 and for 12 months in the Appeal No. E/78421/2018.

4. I find that both the Authorities have correctly imposed the late fee as well as the penalties on the Appellant as per the statutory provisions. By filing this Appeal in 2017, the Appellant has been able to avoid payment of this confirmed late fee and penalties for the last six years. The Appellant has taken the advantage of the fact that no interest is payable on late fee and penalties and drag the case for the last six years. The deemed benefit of interest on account of these amounts would be more than the confirmed demand amounts. Therefore, I find no reason to entertain their Appeals.

5. The Appeals are dismissed.

(Dictated and pronounced in the open court.)

Sd/-

(R. Muralidhar)
Member (Judicial)

Pooja