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

REGIONAL BENCH - COURT NO.2

Excise Appeal No.76337 of 2014

(Arising out of Order-in-Appeal No.199/KOL-IV/14 dated 30.06.2014 passed by Commissioner of Central Excise (Appeals), Kolkata-III.)

M/s. Berger Paints India Ltd.
(Erstwhile M/s. ICI India Ltd.)
(103, G.T. Road, Rishra, Hooghly-712248, West Bengal.)

...Appellant

VERSUS

Commissioner of Central Excise, Kolkata-IV

.....Respondent

(15/1, Strand Road, Custom House, M.S. Building, Kolkata-700001.)

APPEARANCE

Shri Rahul Tangri & Shri Vasudev A., Advocates for the Appellant (s)
Shri P.K.Ghosh, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)

FINAL ORDER NO. 75258/2025

DATE OF HEARING : 23.01.2025
DATE OF DECISION : 23.01.2025

Per : R. MURALIDHAR :

The Appellant has filed this Appeal being aggrieved by Order-in-Appeal No.199/KOL-IV/14 dated 30.06.2014 wherein in spite of clear directions of this Bench, the Commissioner(Appeals) has not followed the same and passed a very vague order stating that interest receivable are admissible deduction, but he is not in a position to quantify since the Appeal pertains to the year 1983-1996.

2. When the matter was taken up for hearing today, the Ld.Counsel submits that the Appellant had opted for provisional assessment. Thereafter in the year 2000 vide Order

No.19/Valuation/Adjudication/CE/SRMP/2000 dated 06.06.2000, the Adjudicating authority held that interest on sundry debtors is to be disallowed as admissible deductions and other deductions claimed by the Appellant should be considered. In terms of this Order, a demand letter vide C.No.PV-20(1)Assessment Order/R-II/SRM-/94/1170 dated 22.11.2000 was made wherein the monthwise excise duty payment, short paid and excess paid were captured at Annexure-A and finally the Department has arrived at the short payment of excise duty to the extent of Rs.1,18,01,240/-. Being aggrieved, the Appellant had filed an Appeal before the Commissioner(Appeals). The Commissioner(Appeals) vide Order-in-Appeal No.45/BOL/2004 dated 31.03.2004 held as under:-

> *"3. I have gone through the case records carefully.*
>
> *The issue for determination lies in a very narrow compass. The Superintendent while finalizing provisional assessment in the impugned order dated 22/11/2000 based on the Assistant Commissioner's order dated 06/06/2000 deciding the valuation matter, has demanded duty Short paid without making any adjustment against the duty excess paid.*
>
> *The appellants have challenged the impugned order on the grounds:-*
>
> *i. Violation of principle of natural justice.*
>
> *ii. Assistant Commissioner order-in-original dated 06-06-2000 is not enforceable in view of order-in-appeal no.14/cal-iv/2001 dated 23/02/01.*
>
> *iii. Superintendent subsequently has issued a show cause notice on the same matter which is awaiting adjudicating by the Deputy commissioner.*
>
> *In view of the facts as above and considering that parallel proceedings need to be eschewed, the impugned order is liable to be set aside more so when finalization of assessment done by the superintendent has ignored excess payment made. Accordingly, the impugned order is quashed and appeal allowed.*

3. The Ld.Counsel submits that the department was not aggrieved by this order and no further appeal was filed against this Order-in-Appeal before the Tribunal.

4. In the meanwhile, the earlier Appeal filed by the Appellant against the Valuation Order No.19/Valuation/Adjudication/CE/SRMP/2000 dated 06.06.2000 was taken up by the Commissioner(Appeals) and he passed Order No.14/CAL-IV/2001 dated 23.02.2001 and held that the issue is to be once again decided by the Adjudicating authority and accordingly he has remanded the matter to the Adjudicating authority. The Adjudicating authority vide Order-in-Original No.98/BPIL/PA/SRMP/05 dated 30.12.2005 without following the directions in the remand order of the Commissioner(Appeals) confirmed the demand amount of Rs.1,18,01,240/-.

5. The Appellant being aggrieved filed an appeal before the Commissioner(Appeals), who by way of Order-in-Appeal No. 87/KOL-IV/2006 dated 29.06.2006 once again remanded the matter back to the Adjudicating authority.

6. Being aggrieved, the Revenue filed before the Tribunal. This Tribunal vide Final Order No.A-116/KOL/2011 dated 21.04.2011 held that the Commissioner(Appeals) had no power to remand the matter to the Adjudicating authority in Central Excise cases. Accordingly, the Tribunal directed the Commissioner(Appeals) to finalize the issue at his end. The Ld.Commissioner(Appeals) vide the impugned order had passed a vague order as mentioned in Para-1 of this order. Hence, the Appellant is before the Tribunal.

7. The Ld.Counsel has prepared a chart showing the chronology of events in both the cases which has been submitted for convenience of understanding. The same is being reproduced below:-

<u>Chart of Parallel Proceedings</u>

Valuation Order No. 19/Valuation/Adjudication/CE/SRMP/2000 dated 06.06.2000 ('Order on Principles')

Demand Letter C. No. PV-20(1)Assess- -mentOrder/R-II/SRMP/94/1170 dated 22.11.2000 (' Computation Letter' giving effect to the

Appeal against Valuation Order **Appeal against Computation Letter**

Order-in-Appeal No. 14/CAL-IV/2001 dated 23.02.2001

Ld. Commissioner (Appeals) remanded the matter to the original adjudicating authority on the limited ground of determination of admissibility of abatement of interest on sundry debtors in light of the decision of the Hon'ble CEGAT in the Appellant's own case wherein it was held that interest on receivables is allowable as an abatement.

(***Copy of OIA dated 23.02.2001 is enclosed in Page 54 to 58 of the Appeal Paper Book***)

Order-in-Appeal No. 45/BOL/2004 dated 31.03.2004

Ld. Commissioner (Appeals) allowed the Appeal against Demand Letter filed by the Appellant and quashed such Demand Letter dated 12.11.2000 by rightly taking into account that the Ld. Superintendent while demanding such short-paid duty has ignored the excess payment of duty made by the Appellant.

(***Copy of OIA dated 31.03.2004 enclosed in page 60-63 of the Appeal Paper Book***).

<u>Matterattained finality since department never appealed against this order. There is an excess payment of Rs. 1,34,65,629/- which when adjusted against short-paid duty of Rs. 1,18,01,240/- results into excess payment of Rs. 16,64,389/- which needs to be refunded to the Appellant.</u>

Proceedings continued w.r.t Valuation Order

Order-in-Original No. 98/BPIL/PA/SRMP/05 dated 30.12.2005 However, without following the remand directions, the Ld. Deputy Commissioner, confirmed the demand of Rs. 1,18,01,240/- on various grounds going beyond the remand directions. (***Copy of the OIO dated 30.12.2005 along with corrigendum dated 22.02.2006 enclosed in pages 88 to 136 of the Appeal Paper Book***).
Appeal filed against OIO dated 30.12.2005 The Appellant filed an appeal before the Ld. Commissioner (Appeals) on 01.03.2006 against the OIO dated 30.12.2005 on various grounds including that the entire issue stands settled by way of Order-in-Appeal No. 45/Bol/2004 dated 31.03.2004 wherein the demand letter directing the Appellant to pay short paid duty of Rs. 1,18,01,240/- stands quashed. (**Copy of the Appeal filed by the Appellant is enclosed in Page 137 to 154 of the Appeal Paper Book**).
Order-in-Appeal No. 87/KOL-IV/2006 dated 29.06.2006 The Ld. Commissioner (Appeals) remanded the matter back to the adjudicating authority based on the findings that the adjudicating authority did not decide the issue based on the remand directions and also observed that the entire issue stands settled vide Order-in-Appeal dated 31.03.2004. (***Copy of OIA dated 29.06.2006 is enclosed in Page 155-168 of the Appeal Paper Book***).
Department appealed against such OIA dated 29.06.2006 before the Hon'ble

CESTAT, Kolkata vide Appeal No. E/552/2006.	
Final Order No. A-116/KOL/2011 dated 21.04.2011 in E/552/2006. The Hon'ble CESTAT, Kolkata vide FO dated 21.04.2011 allowed the appeal filed by the Department and remanded the matter back to the Ld. Commissioner (Appeals) based on the finding that the Ld. Commissioner (Appeals) does not have the jurisdiction to remand the matter to the adjudicating authority. **(*Copy of the Final Order dated 21.04.2011 is enclosed in Page 169 to 171 of the Appeal Paper Book*).**	
Order-in-Appeal No. 199/KOL-IV/2014 dated 30.06.2014 ('impugned Order') In compliance with the order of the Hon'ble CESTAT, Kolkata, the Ld. Commissioner (Appeals) passed the impugned holding that the abatement of interest on receivable is allowable but since the Appellant did not submit the requisite documents justifying such claim, the same cannot be provided. (***Copy of impugned OIA dated 30.06.2014 enclosed in pages 29 to 37 of the Appeal Paper Book***).	

8. The Ld.Counsel also submits that they are not contesting the issue of not allowing deduction on account of interest on debtors. He submits that their simple prayer is to consider both the short payments and excess payments and the finalization may be done on that basis as has already been noted by the Commissioner(Appeals) vide Order-in-Appeal No.45/BOL/2004 dated 31.03.2004, which has not been challenged by the Revenue.

9. The Ld.AR for the Department reiterates the findings of the Commissioner(Appeals) vide Order-in-Appeal No.199/KOL-IV/14 dated

30.06.2014 and submits that it is very difficult for the Commissioner(Appeals) to arrive at a correct figure on account of interest on debtors as the issue pertains to the year 1983-1996.

10. Heard both sides and perused the appeal papers and other documents as placed before us.

11. We find that the issue actually is in a very short compass. So far as the dispute with regard to the deduction to be allowed or not to be allowed on account of interest on debtors, the same is not being contested by the Appellant now, as has been clarified by the Ld.Advocate.

12. We have gone through the assessment order No.C.No.PV-20(1)/Assessment Order/ R-II/SRMP/94/1170 dated 22.1.2000 and Annexure-A annexed thereto. We find that during several months, the Appellant has paid excess Excise Duty and in many of the months they have paid lesser excise duty. For the sake of convenience the Annexure-A is reproduced below:-

48

ANNEXURE-A

Statement showing details of C.Ex. duty paid, payable and difference ,if any, as per valuation order Dated 6-6-2000 passed by the Dy. Commissioner of C..Ex. , Serampore Divn. , Calcutta relating to M/S. ICI (I) Ltd., PaintsDivision, Rishra, Hooghly. During the period from 19-12-83 to Sept.,96

Sl. No.	Month	Qnty. Of goods Despatched (Kg/Ltr)	Amt. Of C.Ex. duty paid (Rs.)	Amt. Of C.Ex. duty payable as per Valuation Order Dated 6-6-2000	(Excess/short paid) Difference ,if any (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)
1.	4/84	428655	2317458	2379734	- 62276
2.	5/84	393811	2270079	2303847	-33768
3.	6/84	402494	2145841	2099979	+45862
4.	7/84	407611	2219312	2171090	+48222
5.	8/84	418385	2330895	2266258	+64637
6.	9/84	529970	2846346	2784947	+61399
7.	10/84	371835	2067714	2054428	+13286
8.	11/84	378625	2031105	2236772	-205667
9.	12/84	432461	2405650	2488225	- 82575
10.	01/85	475683	2727005	3067248	-340243
11.	02/85	525902	3016271	3279851	-263580
12.	03/85	476065	2694093	2982194	- 288101
13.	04/85	~~47519~~ 471519	2861736	3138638	-276902
13.	05/85	461530	2839522	3058891	-219369
14.	06/85	529078	3380917	3727412	-342495
15.	07/85	535946	3365063	3787147	-422084
16.	08/85	668809	4427460	4940215	-512755
17.	09/85	544648	3531238	3688246	-157008
18.	10/85	416881	2775344	2831778	-56434
19.	11/85	518819	3438648	3604841	-166193
20.	12/85	440914	2788518	2788518	------
21.	01/86	608233	4124827	4124827	-----
22.	02/86	610974	3319968	3319968	-----
23.	03/86	434983	4135906	4135906	-----
24.	04/86	462310	4473401	4562656	-89255
25.	05/86	592815	5833453	5963310	-129857
26.	06/86	473671	4369397	4437313	-67916
27.	07/86	515179	4725878	4721838	+4040
28.	08/86	565464	5423302	5391706	+31596
29.	09/86	566691	5151521	5142400	+9121
30.	10/86	454439	4328442	4170068	+158374
40.	11/86	445360	4386726	4218327	+168399
41.	12/86	603304	6044020	5596451	+ 447569
42.	01/87	581723	6902047	5632590	+1269457
43.	02/87	599127	5966935	5729012	+237893

Superintendent of Central Ex.
Range-II
Serampore Division
Rishra

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49

44.	03/87	531950	5298262	5107814	+190448
45.	04/87	562364	6211715	5962490	+249225
46.	05/87	592664	6164437	5904958	+259479
47.	06/87	618948	6254189	6013724	+240465
48.	07/87	553870	5733551	5522527	+211024
49.	08/87	642475	6768760	6169084	+299674
50.	09/87	585952	6264120	6048802	+215318
51.	10/87	526303	5609042	5647664	-38622
52.	11/87	651557	6765866	6762401	+3465
53.	12/87	604839	6443047	6445697	-2650
54.	01/88	517751	5666922	5673900	-6978
55.	02/88	545405	5875061	5845062	+29999
56.	03/88	533256	7699741	6027574	+1672167
57.	04/88	479800	6742527	6824306	-81779
58.	05/88	607287	8382521	8559712	-177191
59.	06/88	514939	7083524	7083524	-------
60.	07/88	608511	8597847	8597847	------
61.	08/88	693211	9745158	9717578	+27580
62	09/88	617054	8960583	9014418	-53835
63.	10/88	561993	7947213	7989812	-42599
64.	11/88	637935	9441193	9459303	-18110
65.	12/88	671894	9425243	9432722	-7479
66.	01/89	660430	9740790	9716493	+ 24297
67.	02/89	492163	7593421	7493649	+99772
68.	03/89	504960	7340870	7566641	-225771
69.	04/89	484736	7203365	7171519	+31846
70.	05/89	548737	7910109	7879182	+30927
71	06/89	631151	8917463	8228857	+688606
72.	07/89	602572	9457799	9502788	-44989
73.	08/89	632136	10086954	10087447	-493
74.	09/89	674388	9778184	9749725	+28459
75.	10/89	591933	9094692	9029052	+65634
76.	11/89	590657	9312163	9515632	-203469
77.	12/89	654300	10823864	10854473	-30694 -30609
78.	01/90	609491	609491 10499218	10499218 10416371	+82847
79.	02/90	540331	9442157	9677770	-235613
80.	03/90	682438	13142935	13774328	-631393
81.	04/90	635458	12622251	12584852	+37399
82.	05/90	677310	13200746	13056574	+144172
83.	06/90	499626	9879588	9879588	------
84.	07/90	523943	9849601	9800622	+48979
85.	08/90	636626	11657734	11671550	-13816
86.	09/90	478678	8768374	8561348	+207026
87.	10/90	649453	12870405	12860311	+10094
88.	11/90	609118	12834826	12618139	+216687
89.	12/90	588768	11718768	11792776	-74008
90.	01/91	383887	7767556	7791595	-24039
91.	02/91	474160	10158461	10059960	+98501

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50

		512929	10497529	10469676	+27853
	04/91	251788	5210069	5178551	+31518
	05/91	597560	12942043	12919009	+23034
95.	06/91	560202	12100614	12063542	+37072
96.	07/91	556981	12123776	11995000	+128776
97.	08/91	577785	13573691	13485740	+87951
98.	09/91	486591	11968759	11909277	+59482
99.	10/91	579937	13980992	13910605	+70387
100.	11/91	460427	11653126	11578008	+75118
101.	12/91	450976	11180456	11127215	+53241
102.	01/92	413022	10099280	10053765	+45515
103.	02/92	416938	10709312	10669186	+40186
104.	03/92	492453	16468974	16392164	+76810
105.	04/92	506344	17297238	17297238	------
106.	05/92	604297	20288758	19809510	+479248
107.	06/92	416044	14827085	14205253	+621832
108.	07/92	399922	14138408	13790433	+347975
109.	08/92	441821	15381734	15069594	+312140
110.	09/92	450553	15357453	15061101	+296352
111.	10/92	466461	17507028	17433033	+73995
112.	11/92	459205	16998613	16747597	+251016
113.	12/92	497670	16997320	16778135	+219185
114.	01/93	451886	17018625	16920882	+97743
115.	02/93	454419	17359181	17201160	+158021
116.	03/93	430258	14028050	13916779	+111271
117.	04/93	437487	14247288	14370780	-123492
118.	05/93	350592	11851674	11799855	+51819
119.	06/93	408831	12680426	12634449	+45977
120.	07/93	391560	12553455	12553455	-----
121.	08/93	540724	17835207	17835207 17817673.	+17534
122.	09/93	420409	13213292	13486984	-273692
123.	10/93	617546	18790115	18665443	+124672
124.	11/93	531512	17025545	17019031	+6514
125.	12/93	580783	19145104	19224733	-79629
126.	01/94	516411	16617034	16570679	+46355
127.	02/94	351127	11042153	11012397	+29756
128.	03/94	545590	16018348	16235119	-216771
129.	04/94	515366	15778301	15596287	+182014
130.	05/94	511621	15053569	14916388	+137181
131.	06/94	562980	16307942	15384769	+923173
132	07/94	583460	16379238	16325389	+53849
133.	08/94	613920	16834386	16619842	+214544
134.	09/94	546154	15407483	15358011	+49472
135.	10/94	565216	15744106	15753703	-9597
136.	11/94	566423	15227810	15162311	+65499
137	12/94	620648	16566428	17454011	-887583
138.	01/95	640911	16378813	18220443	-1841630
139.	02/95	595729	17124130	17262669	-138539
140.	03/95.	750526	16274083	16108927	+165156
141.	04/95	640724	12876273	12679776	+196197
142.	05/95	708769	13645679	13444405	+201274
143.	06/95	715013	14251738	14040940	+210798

51

	[illegible]	17303222	[illegible]	+29?70	July '95 →
	?71141	15191938	15225697	-33759	
?95	699345	14079498	14049930	+29568	
11/95	594978	12051938	12002609	+49329	
12/95	667526	12436304	12385137	+51167	
01/96	587772	15627207	15863176	-235969	
02/96	644488	13927683	1593?133	-7750	
03/96	729934	15019186	1498?51	+30335	
04/96	751507	15829289	1615?62	-325973	
05/96	707033	14325466	14620?02	-295336	
06/96	833741	16929347	1730?16	-376569	
07/96	1009136	20189565	2062?06	-439941	
08/96	915404	18869300	1936??62	-497362	
09/96	804434	15122706	1551??33	-387727	

[illegible]
+51,410

22/11/2?

Superintendent of Central Excise
Range-II
Serampore Division
HOOGHLY

ANNEXURE-B

52

Statement showing differential C.E. duty to be paid by M/S. ICI (I) Ltd., Paints Division, Rishra, Hooghly in consequence of Valuation Order dated 6.6.2000 passed by the Dy. Commissioner of C.Ex., Serampore Divn. Calcutta.

Sl. No.	Month	Qty. Of goods (Kg./Ltr.)	Amt.of C.E. Duty paid (Rs.)	Amt.of C.E. duty to be paid (Rs.)	Differential duty to be paid (Rs.)
1	2	3	4	5	6
1.	4/84	428655	2317458	2379734	62276
2.	5/84	393811	2270079	2303847	33768
3.	11/84	378625	2031105	2236772	205667
4.	12/84	432461	2405650	2488225	82575
5.	01/85	475683	2727005	3067248	340243
6.	02/85	525902	3016271	3279851	263580
7.	03/85	476065	2694093	2982194	288101
8.	04/85	471519	2861736	3138638	276902
9.	05/85	461530	2839522	3058891	219369
10.	06/85	529078	3380917	3723412	342495
11.	07/85	535946	3365063	3787147	422084
12.	08./85	668809	4427460	4940215	512755
13.	09/85	544648	3531238	3688246	157008
14.	10./85	416881	2775344	2831778	56434
15.	11/85	518819	3438648	3604841	166193
16.	04/86	462310	4473401	4562656	89255
17.	05/86	592815	5833453	5963310	129857
18.	06/86	473671	4369397	4437313	67916
19	10/87	526303	5609042	5647664	38622
20.	12/87	604839	6443047	6445697	2650
21.	01/88	517751	5666922	5673900	6978
22.	04/88	479800	6742527	6824306	81779
23.	05/88	607287	8382521	8559712	177191
24.	09/88	617054	8960583	9014418	53835
25.	10/88	561993	7947213	7989812	42599
26.	11/88	637935	9441193	9459103	18110
27.	1288	671894	9425243	9432722	7479
28.	03/89	504960	7340870	75666[illegible]1	225771
29.	07/89	602572	9457799	95027[illegible]8	44989
30.	08/89	632136	10086954	10087447	493
31.	11/89	590657	9312163	9515632	203469
32.	12/89	654300	10823864	10854473	30609
33.	02/90	540331	9442157	9677770	235613
34.	03/90	682438	13142935	13774328	631393
35.	06/90	636626	11657734	11671550	13816
36.	12/90	588768	11718768	11792776	74008
37.	01/91	383887	7767556	7791595	24039
38.	04/93	437487	14247288	14370780	123492

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Superintendent of Central Ex
Range-II
Serampore Division
KOSBA

53

	08/94	420409	13313303	13486984	273692
40	12/94	580783	19145104	19224733	79629
41	01/94	545590	16018348	16235119	216771
42	10/94	565210	15744106	15753703	9597
43	12/94	620648	16366428	17454011	887583
44	01/95	640911	16378813	18220443	1841630
45	02/95	595720	17124130	17262669	138539
46	08/95	774141	15191938	15225697	33739
47	01/96	768777	15627207	15863176	235969
48	02/96	644488	13927683	13935433	7750
49	04/96	751507	15829289	16155262	325073
50	05/96	707033	14325466	14620802	295336
51	06/96	833741	16929347	17305916	376569
52	07/96	1009136	20189365	20629506	439941
53	08/96	915404	18869300	19366662	497362
54	09/96	804434	15122706	15510433	387727
	TOTAL:-	3,14,44,193	50,25,76,941	51,43,78,181	1,18,01,240

Attested

DILIP KUMAR DEY
Supdt. of Central Excise
Serampore ..., Rishra

13. We find from the above Table that the Department has left out the excess payment made by the Appellant and has only taken the short payments to arrive at the total short payment of Rs.1,18,01,240/-. On the other hand the Appellant claims that excess payment is to the extent of Rs.1,34,65,629/-, which results in refund of duty of Rs.16,64,389/- towards net excess payment.

14. The chart towards this prepared by the Appellant is reproduced below :-

Annexure - A to the Letter Dated 22.11.2000 (Statement showing details of differential duty as per valuation order dated 06.06.2000)		
Month	Excess paid	Short Paid
4/84		62,276
5/84		33,768
6/84	45,862	
7/84	48,222	
8/84	64,637	
9/84	61,399	
10/84	13,286	
11/84		2,05,667
12/84		82,575
1/85		3,40,243
2/85		2,63,580
3/85		2,88,101
4/85		2,76,902
5/85		2,19,369
6/85		3,42,495
7/85		4,22,084
8/85		5,12,755
9/85		1,57,008
10/85		56,434
11/85		1,66,193
12/85		
1/86		
2/86		
3/86		
4/86		89,255
5/86		1,29,857
6/86		67,916
7/86	4,040	
8/86	31,596	
9/86	9,121	
10/86	1,58,374	
11/86	1,68,399	
12/86	4,47,569	
1/87	2,69,457	
2/87	2,37,893	
3/87	1,90,448	
4/87	2,49,225	
5/87	2,59,479	
6/87	2,40,465	
7/87	2,11,024	
8/87	2,99,674	
9/87	2,15,318	
10/87		38,622
11/87	3,465	

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Annexure - A to the Letter Dated 22.11.2000 (Statement showing details of differential duty as per valuation order dated 06.06.2000)		
Month	Excess paid	Short Paid
12/87		2,650
1/88		6,978
2/88	29,999	
3/88	16,72,167	
4/88		81,779
5/88		1,77,191
6/88		
7/88		
8/88	27,580	
9/88		53,835
10/88		42,599
11/88		18,110
12/88		7,479
1/89	24,297	
2/89	99,772	
3/89		2,25,771
4/89	31,846	
5/89	30,927	
6/89	6,88,606	
7/89		44,989
8/89		493
9/89	28,459	
10/89	65,634	
11/89		2,03,469
12/89		30,609
1/90	82,847	
2/90		2,35,613
3/90		6,31,393
4/90	37,399	
5/90	1,44,172	
6/90		
7/90	48,979	
8/90		13,816
9/90	2,07,026	
10/90	10,094	
11/90	2,16,687	
12/90		74,008
1/91		24,039
2/91	98,501	
3/91	27,853	
4/91	31,518	
5/91	23,034	
6/91	37,072	
7/91	1,28,776	

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Annexure - A to the Letter Dated 22.11.2000 (Statement showing details of differential duty as per valuation order dated 06.06.2000)

Month	Excess paid	Short Paid
8/91	87,951	
9/91	59,482	
10/91	70,387	
11/91	75,118	
12/91	53,241	
1/92	45,515	
2/92	40,186	
3/92	76,810	
4/92		
5/92	4,79,248	
6/92	6,21,832	
7/92	3,47,975	
8/92	3,12,140	
9/92	2,96,352	
10/92	73,995	
11/92	2,51,016	
12/92	2,19,185	
1/93	97,743	
2/93	1,58,021	
3/93	1,11,271	
4/93		1,23,492
5/93	51,819	
6/93	45,977	
7/93		
8/93	17,534	
9/93		2,73,692
10/93	1,24,672	
11/93	6,514	
12/93		79,629
1/94	46,355	
2/94	29,756	
3/94		2,16,771
4/94	1,82,014	
5/94	1,37,181	
6/94	9,23,173	
7/94	53,849	
8/94	2,14,544	
9/94	49,472	
10/94		9,597
11/94	65,499	
12/94		8,87,583
1/95		18,41,630
2/95		1,38,539
3/95	1,65,156	

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Annexure - A to the Letter Dated 22.11.2000 (Statement showing details of differential duty as per valuation order dated 06.06.2000)		
Month	Excess paid	Short Paid
4/95	1,96,497	
5/95	2,01,274	
6/95	2,10,798	
7/95	54,410	
8/95	29,070	
9/95		33,759
10/95	29,568	
11/95	49,329	
12/95	51,167	
1/96		2,35,969
2/96		7,750
3/96	30,335	
4/96		3,25,973
5/96		2,95,336
6/96		3,76,569
7/96		4,39,941
8/96		4,97,362
9/96		3,87,727
Total Excess Paid Duty (A)	1,34,65,629	
Total Short Paid Duty (B)		1,18,01,240
Refund Due (A-B)	16,64,389	

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Page 4 of 4

15. We find that there are months in which the Appellants have paid excess duty. We also find that Order-in-Appeal No.45/BOL/2004 dated

31.03.2004 was not challenged by Revenue before the Tribunal and hence has attained finality. This shows that the Department has accepted that findings contained therein. Therefore, we hold that the Adjudicating authority is required to consider both the excess payments and short payments and should arrive at the net duty payable/refund payable.

16. With these directions we remand the matter to the Adjudicating authority for proper verification of the quantification. We make it clear that for such quantification the basis would be only Annexure-A of the Order dated 22.11.2000. Since the issue pertains to the year 1983-1996 and both the sides have spent more than two decades on this issue, the Adjudicating authority is directed to finalize the issue within 4(four) months from the date of receipt of this order.

17. The Appeal stands disposed off thus.

(Dictated and pronounced in the open Court.)

Sd/

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/
(RAJEEV TANDON)
MEMBER (TECHNICAL)

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