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

REGIONAL BENCH – COURT NO.1

Customs Appeal No.245 of 2011

(Arising out of Order-in-Appeal No.Kol/Cus/CKP/158/2011 dated 23.05.2011 passed by Commissioner (Appeals) of Customs, Kolkata)

M/s MCCPTA India Corp. Private Limited
(22, Camac Street, Block-C, 4th Floor, Kolkata-700016)

Appellant

VERSUS

Commissioner of Customs (Port), Kolkata
(15/1, Stand Road, Kolkata)

Respondent

APPERANCE :
Shri S. Bhowmik, Authorised Representative for the Appellant
Shri Subrata Debnath, Authorized Representative for the Respondent

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.76260/2025

DATE OF HEARING : 02 MAY 2025
DATE OF DECISION : 02 MAY 2025

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein interest has been demanded on the basis of supplementary invoices on the foreign supplier.

2. The facts of the case are that the appellant imported paraxylene and filed Bill of Entry during the period from 25.03.2008 to 12.02.2010 and paid the duty on the value of declaration in the supplementary invoices. As it was the condition of the sale by the foreign supplier that the appellant was required to make payment within the certain period of time, if they failed to make the payment, then price of the goods exported by the supplier and imported by the appellant shall be increased. As the appellant could not follow the condition of the same, therefore, the supplier-exporter enhanced the assessable value and the

supplementary invoices were issued. On the basis of the supplementary invoices, the appellant paid the duty, but did not pay the interest for the intervening period. Accordingly, the Revenue has issued show-cause notice to the appellant to demand interest for the intervening period and the demand of interest was confirmed. Against the said order, the appellant is before us.

3. The ld.Authorised Representative for the appellant submits that as they have paid the duty when the supplementary invoice was issued, therefore, interest is not payable. He also prayed that as the Company is facing recurring losses, therefore, the interest be waived.

4. We have also heard the ld.A.R. for the Revenue and perused the records.

5. We find that in this case, it was in the knowledge of the Department at the of importation itself that if the appellant failed to make the payment for importation of goods within the certain period of time, then price of the goods imported by the appellant shall be enhanced and the appellant failed to do so. In that circumstances, the appellants are liable to pay interest for the intervening period as there is not provision in law to waive the interest. Therefore, the demand of interest is confirmed.

6. In view of the above, we do not find any infirmity in the impugned order and the same is upheld and the appeal filed by the appellant is dismissed.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

mm