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

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 181 of 2011

(Arising out of Order-in-Original No. 13/Denovo/Commr/CE/KOL-III/2010-11 dated 27.12.2010 passed by the Commissioner of Central Excise Kolkata-III Commissionerate 180, Shantipally, Rajdanga Main Road, Kolkata-700107)

M/s. Caplet India Pvt. Ltd. **: Appellant**
Rekjuani, Rajarhat,
24-Pargans (North), West Bengal

VERSUS

Commissioner of Central Excise, Kolkata –III Commissionerate, **: Respondent**
180, Shantipally, Rajdanga Main Road,
Kolkata-700107

APPEARANCE:

Shri Ananda Manna, Advocate
Ms. Ankita Mitra, Advocate for the Appellant

Shri S. K. Dikshit, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77318/2025

DATE OF HEARING / DECISION: 06.08.2025

Order: [PER SHRI ASHOK JINDAL]

The appellant is appeal against the impugned order demanding duty, along with interest and penalty, from the appellant.

2. The facts of the case are that the appellant is engaged in the manufacture of medicaments both P or P (Patent or Proprietary) and other than P or P classifying the same under Central Excise Tariff Sub-heading Nos. 3003.10 and 3003.20 of the Central Excise Tariff Act.

3. On 03.07.2002, officers of the Headquarters Anti-Evasion Unit Commissionerate visited the factory premises of the appellant and seized various documents and records. They also detected a shortage of finished goods as compared to the RG-1 Register, involving duty amounting to Rs.12,87,034/ Statement of the Director of the appellant-company was also recorded.

4. The medicaments manufactured by the appellant were removed from their factory on payment of central excise duty under the cover of invoice to their sales depot and cleared to buyers therefrom. In some cases, medicaments were transferred from the factory to their sales depot without payment of central excise duties. Later on, duty was paid by the appellant, before clearance from the depot. In case of removal from the depot, the commercial invoices were prepared out of these two copies accompanied with the goods, out of which one is retained by the depot and other challans were sent to the factory for accounting purposes and payment of central excise duty.

5. The appellant on, 05.07.2002, paid the amount of Rs.13,94,549/- towards duty, vide PLA debit entry Sl. No. 13 dated 05.07.2002 in respect of the alleged shortage of goods.

6. On 19.02.2003, the statement of Shri Sudhir Kumar Pal, Director was again recorded Thereafter, a Show Cause Notice was issued on 02.08.2003 proposing a demand of central excise duty of Rs. 1,53,56,648/-, along with interest, and imposition of penalty, for 06.07.1998 to 02.07.2002.

7. Thereafter, the adjudication order was passed on 27.12.2010 wherein the duty demand proposed in the Notice was confirmed, along with interest; penalty was also imposed.

8. The said order was challenged before this Tribunal and this Tribunal, vide Order dated 12.06.2008,remanded the matter to the adjudicating authority to provide RUDs and non-RUDs, with a specific direction to pre-deposit an amount of Rs.20,00,000/-.Vide de novo adjudication order dated 13.10.2008, the proposals made in the Show Cause Notice were again confirmed.

9. The appellant did not dispute the shortage involving duty of Rs.12,87,034/-, stating that they had immediately debited the said amount. However, they are contesting the demand of duty of Rs.33, 36,708/- and Rs.1,07,32,905/-.

10. Against the said order of the ld. adjudicating authority, the appellant is before us.

11. It is the contention of the appellant that although they had not paid duty at the time of clearance of goods to their depot, but before clearance from the depot, the appellant has paid the duty at the factory gate. In support of their contention, the appellant brought all the invoices on record specifying the payments of duty made thereon, which are annexed to their written submissions filed today.

12. As per the reconciliation with the said central excise invoices, there was a delay in payment of duty by the appellant.

13. In view of this, as duty has been paid by the appellant with a delay, we hold that the appellant is liable to pay interest on delayed payment for the intervening period, within thirty days from today.

14. As it is not a case of clandestine removal of goods but a case of late payment of duty on goods with a delay, therefore, we impose a penalty of Rs.10,000/- (Rupees Ten Thousand only) on the appellant.

15. In view of the above, we pass the following order: -

I. As duty has been paid by the appellant and the same is not in dispute, the appellant is liable to pay interest for the delayed payment for the intervening period i.e., for the period from clearance from the factory till the date of payment of duty at the time of clearance from the depot.

II. Further, a penalty of Rs.10,000/- is imposed on the appellant.

16. In these terms, the appeal is disposed of.

(Operative part of Order was pronounced in Open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

rkp