

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

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 75124 of 2025

(Arising out of Order-in-Appeal No. KOL/CUS/Airport/KS/231/2024 dated 09.04.2024 passed by Commissioner of Customs (Appeals), Kolkata.

Commissioner of Customs (Airport & Administration), Kolkata,
(15/1, Strand Road, Customs House, Kolkata-700001)

...Appellant

VERSUS

M/s Tirumala Seven Hills Pvt. Ltd.,
(22, No. 40, Strand Road, 3rd Floor, Suite-10, Kolkata-700001.)

...Respondent

..

APPEARANCE :

Shri S. Debnath, Authorized Representative for the Appellant

Shri R. N. Bandopadhyay & Rupsha Chatterjee, Advocates for the Respondent

CORAM:

HON'BLE MR. R. MURALIDHAR MEMBER (JUDICIAL)

HON'BLE MR. K ANPZHAKAN MEMBER (TECHNICAL)

Final Order No...77470/2025

DATE OF HEARING : 04.09.2025

DATE OF DECISION : 04.09.2025

PER R. Muralidhar:

The issue pertains to the classification and consequent eligibility or otherwise of Customs Duty exemption. Being aggrieved by the impugned order, vide which the Commissioner (Appeals) has overturned the classification adopted by the Adjudicating authority, the Revenue is in appeal.

2. The Ld. AR, appearing for the appellant Revenue, reiterates the detailed Grounds of Appeal. He submits that the initial assessment and classification of the goods under CTH 85176290 as per the Examination Report of the assessing officer is correct and the Commissioner (Appeals) erred in setting aside the same. Accordingly, he prays the present appeal may be allowed.

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3. The Ld Advocate appearing on behalf of the Respondent importer, makes the following submissions:

3.1 The Respondents have imported Optical Interface Modules (OIM) and classified the same as CTH 85177090 [presently CTH 85177990] and presented their Bill of Entry accordingly, seeking the exemption granted under Notification 57/2017-Cus which grants BCD @ NIL on inputs, parts, and sub-parts used in manufacture of goods under heading 8517

3.2 The Examination report by assessing officer changed the declared CTH from 85177090 to 85176290 where the BCD was enhanced from NIL to 20% In order to meet their requirement, the Respondent paid the Customs Duty applicable for CTH 85176290 'Under Protest' and cleared the goods. The importer also submitted the PD bond and Bank Guarantee and released the goods and contested the issue.

3.3 On appeal, after going through the factual details and the statutory provisions and the clarifications given by the CBIC, the Commissioner (Appeals) vide the impugned Order-in-Appeal No. KOL/CUS/Aiport/KS/231/2024 was passed on 09.04.2024, accepted the respondent's submission that the goods in question would be classifiable under CTH 8517090 [Presently CTH 8517990]. Accordingly, he allowed the appeal filed by the importer [present respondent].

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3.4 The Respondent relies on the letter dated 05.02.2021 received from Assistant Commissioner of Customs, Post Clearance Audit, ACC informing that **"after due deliberation on the matter, this section has accepted your contentions that Optical Interface Module/ Optical Transceiver (SFP/XFP Module) are classifiable under CTH 85177090 as parts and the matter has been closed at this end"**.
[copy enclosed]

3.5 The letter also was annexed with an office memorandum dated 29.10.2019 issued by CBIC chairman.

3.6 This letter dated 05.02.2021, issued by the Department has not been contested in any higher forum and that implies that the matter is accepted by the Department, as is already clear from this letter.

3.7 The BG and Bank Guarantee was also released by the Department which was submitted against Bill of Entry No. 9063059 dated 05.10.2020, the relevant Bill of Entry before the Hon'ble Tribunal.

3.8 It is submitted that prior to 05.10.2020 and after 05.02.2021 all the bills of Entry filed for Optical Interface Modules (OIMs) has been assessed by the assessing group under CTH 85177090 (Current CTH 85177990). Copies of the Bill of Entry enclosed. The Dept. has not contested the CTH adopted therein.

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3.9 Reliance is placed CESTAT Final Order No. A/85426/2024 dated 22.04.2024 passed by Hon'ble CESTAT, Mumbai in the matter of IBM India Pvt. Ltd. Vs. Commissioner of Customs (Import), Mumbai where reliance has been placed on Tribunal Order in the matter of Reliance Jio Infocom Ltd. & Others which has also been upheld by Hon'ble Supreme Court which has ordered that the imported transceivers/SFP can also be classified under CTI 8517 7090 extending the benefit of exemption under Sl. No.5(a) of Notification No.57/2017-Customs dated 30.06.2017

3.10 Reliance is placed on Vodafone Idea Ltd. V/s Principal Commr. of Cus, ACC,(import), New Delhi — classification to be based on functional role within parent equipment.

3.11 This present Bill of Entry has been submitted with CTH 85176290 as per Departmental verbal order "UNDER PROTEST". The protest letter has been enclosed

4. In view of the foregoing, it is prayed that the appeal filed by the Revenue may be dismissed.

5. It is further submitted that the assessment of Bill of Entry under CTH 85176290 is patently erroneous, as it gets confirmed by the letter dated issued by the Dept. 05.02.2021, accepting the respondent's classification of CTH 85177090. Therefore, the denial of the exemption of Customs Duty @ NIL in terms of Notification NO.57/2017 is illegal. The respondent would

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be eligible for the refund excess Customs Duty alongwith interest from the date of payment by the Appellant till the date on which the refund is granted.

5. The respondents have paid the Customs Duty was paid "under protest".[Copy of the letter enclosed]

6. Though after the Order-in-Appeal No. KOL/CUS/Aiport/KS/231/2024 was passed on 09.04.2024 the respondent approached for refund of the excess paid Customs Duty, the same still stands unpaid on the pretext that the issue is pending before the Tribunal. The Board's Circular No. 572/9/2001- Central Excise 22/02/2001 clearly states no refund/rebate claim should be withheld on the ground that an appeal has been filed against the order giving the relief, unless stay order has been obtained.

7. The Respondent would like to draw attention to the recent ruling pronounced by Commissioner of Customs (Appeal), Kolkata in case of **M/s AHANA COMMERCE PVT. LTD. Vs ASSISTANT COMMISSIONER OF CUSTOMS (ARS), KOLKATA** [KOL/CUS(PORT) /KS/45/2025 dated 22.01.2025] involving similar facts where the interest payment has been allowed from the date of payment till the date of refund.

8. Attention is invited to Order-in-Appeal No. KOL/CUS/PORT/DC/262/2025 dated 16.07.2025 in the case of **M/s RAHUL AGRO**

**INDUSTRIES Vs ASSISTANT COMMISSIONER OF CUSTOMS (ARS),
KOLKATA.**

9. Order passed by Hon'ble CESTAT, Allahabad in the matter of **Parle Agro Private Limited Vs. Commissioner of Central Excise, Noida vide Final Order No. 70145/2017 dated 31.01.2017**, is relied upon to pray of interest of 12% for the refund to be granted to the respondent.

10. Reliance placed upon Hon'ble High Court, Allahabad in the matter of **EBIZ. Com Pvt. Ltd. Vs Commissioner of Central Excise**, Customs and Service Tax and Ors reported in 2016 (9) TMI 1405.

11. The decision taken by Hon'ble CESTAT Allahabad in the matter of **Parle Agro Pvt. Ltd. Vs Commissioner, Central Goods & Service Tax, Noida** reported in 2021 (5) TMI 870. The Hon'ble Court in its order has held inter-alia that:-

"39. In this connection reference can also made to the decisions of the Allahabad High Court in Pace Marketing Specialties and Ebiz. Com Private Limited, wherein after making reference to the decision of the Supreme Court in Sandvik Asia Ltd., the High Court granted interest at the rate of 12% per annum in matters relating to refund of amount deposited during investigation and adjudication.

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40. In Riba Textiles, the Tribunal also granted interest at the rate of 12% on refund of amount deposited during investigation and at the time of entertaining the stay application.

41. In view for the aforesaid decisions, and the fact that the rate of interest varies from 6% to 18% in the aforesaid Notifications issued under sections 11AA, 11BB, 11DD and 11AB of the Excise Act, the grant of interest @12% per annum seems to be appropriate.

42. Thus, for the reason stated above, Excise Appeal No. 70628 of 2019 is allowed and the order dated 28.05.2019, passed by the Commissioner (Appeals) is modified to the extent that interest shall be granted to the appellant @12% instead of @6% from the date of deposit till the date of payment. Excise Appeal No. 70674 of 2019 filed by the Principal Commissioner for setting aside the order dated 28.05.2019, passed by the Commissioner (Appeals) is dismissed."

12. In view of the above submissions, it is prayed that the Revenue may be directed to grant the Refund of the excess Customs Duty paid along with interest of 12 % from the date of initial payment by the Respondent till the same is paid to the appellant.

13. To summarize the Respondent's submissions:

- (a) It may be held that the goods in question Optical Interface Modules [OIM] may be held as classifiable under CTH 85177090 (Current CTH 85177990) and not under CTH

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85176290 as is being canvassed by the appellant Revenue. On this ground the appeal filed by the Revenue may be dismissed.

- (b) Considering the fact that the Dept. itself has held that the classification adopted by the appellant under CTH 85177090 is correct, as per the letter dated 05.02.2021 which relied on Office memorandum dated 29.10.2019, the refund may be granted along with interest from the date of payment of Customs Duty till the same is paid to appellant.

- (c) The Refund may be granted with interest of 12% as has been held in the cited case laws.

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

15. We find that the issue on hand is to decide the correct classification of Optical Interface Module (OIM). The respondent at the time of import, has filed the Bill of Entry classifying the OIM under CTH 85177990 [erstwhile 85177090] claiming the exemption under SI No.5 of Notification No.57/2017 Cus. However, the Revenue took the stand the goods are classifiable under CTH 85176290 wherein no exemption benefit was available. The assessment was completed under the CTH 85176290 and the respondent paid the Duty 'Under Protest' in order to meet their supply requirements. After this, they contested the

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classification before the Commissioner (Appeals), who vide the impugned OIA has held that the goods are classifiable under CTH 85177990 only. At Para 10 he has given the following finding:

“ I find that the opinion provided by the Ministry of Communications Govt of India through the Assistant Director General (ADG) Dept of Communications (DOT), supports the classification of OIMs as parts / components under CTH 85177090 (now CTH 85177990). The ADG Dot explicitly states that OIMs are components mounted on PCBs and should be classified as ‘other parts’, emphasizing their role within the broader telecom equipment context”.

16. He further notes that the subsequent Bills of Entry Nos.3594305 and 3594304 dated 4.12.2022 and 09.11.2022 have been assessed by the Dept under CTH 85177990.

17. Thus we find that the Commissioner (Appeals), in the impugned Order has come to a considered conclusion based on the ADG's (DOT) assertion about the exact nature of the OIMs.

18. We find that in the case of the respondents themselves the Asst Commissioner of Customs – Post Clearance Audit -ACC – Kol 2 vide his letter dated 5.2.2021, has stated that the Dept has accepted the respondent's contention that the goods should be classifiable under CTH 85177090. The copy of this letter is reproduced below :

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File No.GEN/ADT/PCA/20/2021-Accts-O/o Pr Commr-Cus-AP/ACC-Kolkata
104800/2021

16


 भारत सरकार/Government of India
 सीमा शुल्क आयुक्त का कार्यालय (विमानपतन एवं हवाई-मालभर परिसर)
 Office of the Pr Commissioner of Customs (Airport & ACC)
 एयर कार्गो कॉम्प्लेक्स, एनएससीबीआई एयरपोर्ट, कोलकाता-700052
 Air Cargo Complex, NSCBI Airport, Kolkata-700052
 Tel: - 033-2243 5372 Fax No. -033-2210 5102 Email Id :- prcommr-apkolcus@gov.in

To,
Tirumala Seven Hills Pvt Ltd.
40,Strand Road ,
3rd Floor ,
R. No.-10 ,W.B.- 700001

**Sub: Classification of Optical Interface Module/ Optical Transceiver(SFP/XFP Module)
in Bill of Entry No.-5449257 dated 26.10.2019.**

Please refer to this office letter dated 19.09.2020 on the above mentioned subject wherein you were requested to offer comments as to why above mentioned products should not be classified under CTH 8517 6290 thereby attracting BCD @ 20%.

It is to inform that your submissions were considered and examined which include Chartered Engineer report dated 24.11.2020 and Department of Telecommunication letter 29.10.2019 addressed to Chairman CBIC (**Copy Enclosed**) mentioning that SFP/XFP module (optical transceivers) should be classified under CTH 85177090 as parts.

It is to inform that after due deliberation on the matter, this section has accepted your contentions that Optical Interface Module/ Optical Transceiver(SFP/XFP Module) are classifiable under CTH 8517 7090 as parts and the matter has been closed at this end.

Date:05.02.2021

(Nalini Kumar Das)
 Assistant Commissioner of Customs
 Post Clearance Audit,ACC, Kol-52

Copy to:

- Deputy/Assistant Commissioner of Customs
Import Group, ACC, Kolkata
- Deputy/Assistant Commissioner of Customs
Import Shed, ACC, Kolkata
- M/s Asim Kumar Chatterjee & Company (Customs Broker)

19. Considering the detailed findings and the above letter issued by the Assistant Commissioner Customs [Office of the Principal Commissioner Customs Airport and ACC], we find that the Appeal filed by the Revenue

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has no merits whatsoever. They are precluded from arguing against the accepted position of the Dept., which is again based on the clarification given by the ADG (DOT).

20. Therefore, we dismiss the appeal filed by the Revenue.

21. Coming to the grievance of the respondent about refund of Customs Duty along with interest, we find that it is on record that they have paid the Customs Duty [which is not payable if the classification is taken as CTH 85177090 / 85177990] 'Under Protest'. The letter filed by them at the time of filing their Bill of Entry is extracted below:

TIRUMALA SEVEN HILLS PVT. LTD.
(An ISO9001: 2000 Company)

Registered Office:
40, Strand Road, 3rd Floor, Suit-10,
Kolkata-700001, West Bengal, INDIA
Ph: +91 33 2243 1376/3788/1304
Email- tirumalacrp_cal@tirumalasevenhills.com
Website: www.tirumalasevenhills.com
CIN: U 31 300WB 1990 PTC 049922

30th September, 2022

To,
Dy. Commissioner of Customs
Air Cargo Complex
NSCBI Airport
Kolkata - 700 052

Respected Sir

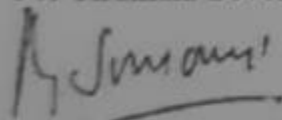
Sub: Release of Shipment

Ref: BOE # 2536863 dated 21.09.2022

With reference to the above BoE which have been accessed by FAG as Transport Equipment under 85176290 where as we have imported Optical Interface Module and have claimed the clarification of the said goods under CTH 85177990

The shipment is incurring demurrages for 10 days and in view of the holidays in West Bengal, we have no option but to pay **BCD under protest**.

Thanking you,
Yours faithfully,
For Tirumala Seven Hills P Ltd



Raj Somani



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22. Further, even the Commissioner (Appeals) in Para 6 of the OIA has given the following findings :

“.....Since the imported goods were urgently required by the appellant due to pre-market commitment, the appellant has paid the applicable enhanced duty under protest’.

23. From the above factual details discussed, we fail to understand as to why in the first place, the Revenue took the stand that the OIM should be classifiable under CTH 85176290 in the year 2022, which goes against their own accepted position of the same as being classifiable under CTH 85177090 as per their own letter dated 05.02.2021. This act of the Revenue has caused undue hardship to the respondent, who had to shell out the Customs Duty in order to clear the consignment which was not required to be paid at all. After this, they were made to run from pillar to post. The Adjudicating authority passed the order on 10.7.2023, after almost 10 months, upholding the CTH 85176290. The respondent had to approach the Commissioner (Appeals), who vide the impugned OIA has done proper justification by allowing their appeal. Unfortunately, against this order, the Revenue has filed before the Tribunal, totally ignoring the findings of the Commissioner (Appeals) about the clarification by ADG (DOT) and acceptance of the same by the Revenue [vide letter dated 5.2.2021] and the fact that subsequent clearances were being allowed under CTH 85177090.

24. We find that even while changing the classification, no speaking order was issued, for which the respondent was made to file their letter seeking a Speaking order, as is evidenced by their letter extracted below:

TIRUMALA SEVEN HILLS PVT. LTD.
(An ISO9001: 2000 Company)

Registered Office:
40, Strand Road, 3rd Floor, Suit-10,
Kolkata-700001, West Bengal, INDIA
Ph: +91 33 2243 1376/3788/1304
Email- tirumalacrp_cal@tirumalasevenhills.com
Website: www.tirumalasevenhills.com
CIN: U 31 300WB 1990 PTC 049922

To,
The Deputy Commissioner of Customs (Grp 5C),
Air Cargo Complex,
NSCBI Airport,
Kolkata - 700 052

30-09-2022

Sir,

Sub- Import of Optical Interface Modules- M/s Tirumala Seven
Hills, Kolkata-Reg
Ref- BoE # 2536863 dated 21.09.2022

Your kind attention is invited to the above subject.

We have imported Optical Interface Modules and have claimed the classification of the said goods under CTH 85177990 as parts.

However during assessment of the said bill of entry, the classification has been changed from that claimed by us in self-assessment to CTH 85176290. It is also submitted that the classification of the goods has been changed in-spite of the fact that a detailed clarification was submitted. But the FAG has overlooked and has not considered the clarifications submitted there in and assessed the bill of entry under CTH 8517 6290.

It will not be out of place to mention that a clarification vide OM File No.16-01/2016-ip(pt.2 dated 29-10-2019 was issued by DOT to the Board wherein it has been clarified that it is one of the component/parts which is mounted on cards (Printed Circuit Boards) of the various types of telecom equipment. Hence, the classification of SFP/XFP transceiver may be made under CTH 85177090 as other parts. Further, Asst. Commissioner of Customs, Post Clearance Audit, ACC, Kolkata has accepted classification of Optical Interface Module under CTH85177090 vide letter GEN/ADT/PCA/20/2021-Accts dated 05.02.2021.

It is further submitted that in terms of Section 17 (5) of the Customs Act 1962 it is stated that:



TIRUMALA SEVEN HILLS PVT. LTD.
(An ISO9001: 2000 Company)

Registered Office:
40, Strand Road, 3rd Floor, Suit-10,
Kolkata-700005, West Bengal, INDIA

TIRUMALA SEVEN HILLS PVT. LTD.
(An ISO9001: 2000 Company)

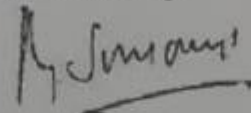
Registered Office:
40, Strand Road, 3rd Floor, Suit-10,
Kolkata-700001, West Bengal, INDIA
Ph: +91 33 2243 1376/3788/1304
Email- tirumalacrp_cal@tirumalasevenhills.com
Website: www.tirumalasevenhills.com
CIN: U 31 300WB 1990 PTC 049922

*Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter [* * *] and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.*

It is submitted that, we have not given our confirmation of the said reassessment in writing to the proper officer at any point of time. Accordingly, it is requested that speaking order on the reassessment of the above said bill of entry maybe passed within 15 days from the date of reassessment as for the act ibid. It is also submitted that, since the Bill of entry has been filed in your jurisdiction, hence this request is made before your good-selves only as we are not aware of the FAG in the instant case.

Thanking You.

Yours Faithfully,



Raj Somani

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25. This shows that no proper thought process was adopted nor proper procedure was followed by Revenue, till the matter came to be decided by the Commissioner (Appeals) vide the impugned OIA. All this while, the illegally collected Customs Duty is simply retained by the Revenue with audacity on the pretext that the appeal against the OIA is pending before the Tribunal.

26. We do not appreciate the way Revenue has gone for litigation on this issue, wherein there is not issue to be contested in the first place. The Respondent cannot be put to financial burden for years together by way of such litigations, where no cause whatsoever is available to the Revenue

27. Now we take up the issue as to what should be the date of refund of the Customs Duty 'Paid Under Protest' by the Respondent and the interest to be paid thereon.

28. Similar issue had come up before this Tribunal in the case of **Z-Konark Vs CCGST - BBSR** in Service Tax Appeal No. 76497 of 2024 – **Final Order No.70513 dated 7.1.2025**, wherein this Bench has held as under:

11. In the case of Atmiya Engineering and Plastics Vs CCE & ST Vadodara, vide FINAL ORDER NO. A/ 10311 /2022, has followed the Ranbaxy judgement and has held as under:

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11. The Revenue's contention is that they have granted the refund within three months from the date of Commissioner (Appeals) order. In this regard, I am of the view that once the Commissioner (Appeals) has allowed the refund, the appellant was entitled for the refund right from the date of filing of the application. Therefore, for the purpose of interest, it is not the date of Commissioner (Appeals) order, but it is the date of filing of refund application needs to be taken.

12. In the case of *Tengapani Tea Estate, M/s. Betjan Tea Estate Vs. Commissioner of CGST & CX, Dibrugarh Commissionerate - 2021 (9) TMI 22*, this Bench has held as under :

"Since the claim for refund/exemption filed by the Appellants in 2008 was eventually adjudicated in favour of the Appellants in 2019, it is evident that there was a delay in the processing of the refund in favour of the Appellants. The Original Authority and the Appellate Authority have proceeded on the premise that the communication dated 27 February 2019 is a claim for refund, which is factually incorrect - The said communication dated 27 February 2019 by the Appellants is only forwarding and inviting the attention of the jurisdictional refund sanctioning authority to the Final Order dated 9 July 2018 passed by this Tribunal and cannot be construed as a fresh claim

It is settled by the decision of the Hon'ble Supreme Court in Ranbaxy Laboratories case [2011 (10) TMI 16 - SUPREME COURT] that the said period has to be reckoned from the date of the application for exemption/refund, which in the instant case is 10 January 2008, and not the date of the adjudication or appellate order sanctioning the refund....."

13. Therefore, following the ratio laid down in the above case laws, we hold that the appellant is eligible for the interest taking the refund claim date as the base. The appellant has filed the refund claim on 22.11.2007. Hence after considering the period of 3 months for processing of this application, the interest would be payable from 22.02.2008 till the date on which the refund has been paid to them.

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14. Now, we take up the issue of the rate of interest to adopted. We find that this issue also stands decided in several cases.

15. The Allahabad Bench, in the case of *Parle Agro Pvt Ltd Vs CCGST, Noida – 2022(380) ELT 219 (Tri-All)*, has held as under:

29. Section 11BB provides for interest on delayed refund. It states that if any duty ordered to be refunded under sub-section (2) of Section 11B is not refunded within three months from the date of receipt of the application, then the applicant shall be entitled to interest after the expiry of three months from the date of receipt of the application at such rate not below 5% and not exceeding 30% as may be notified by the Central Government in the Official Gazette. In the present case, the provisions of Section 11B of the Excise Act would not be applicable. This is for the reason that the appellant was not claiming refund of duty. The applicant, as noticed above, had claimed refund of the revenue deposit. Such a finding has also been clearly recorded by the Tribunal in the order dated 31-1-2017, which order has attained finality. In this connection reference can also made to the decisions of the Allahabad High Court in *Pace Marketing Specialities and Ebiz.Com Private Limited*, wherein after making reference to the decision of the Supreme Court in *Sandvik Asia Ltd.*, the High Court granted interest at the rate of 12% per annum in matters relating to refund of amount deposited during investigation and adjudication. In *Riba Textiles*, the Tribunal also granted interest at the rate of 12% on refund of amount deposited during investigation and at the time of entertaining the stay application. In view for the aforesaid decisions, and the fact that the rate of interest varies from 6% to 18% in the aforesaid Notifications issued under Sections 11AA, 11BB, 11DD and 11AB of the Excise Act, the grant of interest @ 12% per annum seems to be appropriate. Thus, for the reason stated above, Excise Appeal No. 70628 of 2019 is allowed and the order dated 28-5-2019, passed by the Commissioner (Appeals) is modified to the extent that interest shall be granted to the appellant @ 12% instead of @ 6% from the date of deposit till the date of payment.

16. In *Churchit Interntional Vs CC (Export)*, vide Final Order No.58537/2024 dated 6.9.2024, the Delhi Tribunal has held as under :

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The Appellant was made to deposit Rs.50,00,000/- involuntarily under threat of arrest during investigation on 18.03.2014.

Thereafter, Assistant Commissioner of Customs (Refund) vide Order-in-Original No.045/2021 dated 24/12/2021 allowed the refund of Rs. 50,00,000/-but had not granted interest on the said amount. 5. Having heard both the parties and after perusing the record it is worth noting that amount of Rs.50,00,000/- was deposited much before issuance of show cause notice and adjudication order did not confirm any demand against the appellant and thus the said amount was never appropriated against any demand. There was no demand against the appellant and accordingly such collection of amount was without authority of law. 15. This Tribunal in the case of M/s. Parle Agro Pvt. Ltd. Vs. Commissioner, Central Goods & Service Tax, Noida (vice- Versa) reported as 2021 (5) TMI 870 – CESTAT ALLHABAD has held that in the light of the above discussed notifications the grant of interest at the rate of 12% per annum seems to be appropriate. Tribunal Delhi (CESTAT) also in the case of Duggar Fibre Pvt. Ltd. Vs. Commissioner of C. Ex., Cus. & CGST, Delhi reported as 2021 (378) ELT 293 (Tri.-Del.) wherein the adjudicating authority was ordered to grant interest @ 12% per annum from the date of deposit till the date of refund.

17. Following the ratio of the cited case laws of Parle Agro and Churchit, we hold that the appellant would be eligible for interest @ 12% per annum.

29. We find that to the factual matrix of the present case, the cited case law is squarely applicable. Therefore, we hold that the Respondent would be eligible for Refund of the Customs Duty paid along with interest from the date of initial payment of the same in September 2022. The three months' time given for processing the refund from the date of initial payment of customs is to be excluded while calculating the interest. The interest is payable for the intervening period till the date the refund is granted to the respondent.

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30. The jurisdictional authorities are directed to grant the refund along with interest at the earliest since the appellant has been put to financial hardship for no reason whatsoever for about 4 years, also keeping in mind the increased burden of interest on the exchequer for each day of delay in granting the refund.

31. To summarize our decision:

- (a) The Appeal filed by the Revenue is dismissed
- (b) The Respondent is required to granted the refund of the Customs Duty paid along with interest @ 12% per annum payable from three months from the date of initial payment of Customs Duty by the appellant till the refund is granted.

31. The appeal stands disposed off on the above terms.

(Dictated and pronounced in the open court)

Sd/-
(R. Muralidhar)
Member (Judicial)

Sd/-
(K. Anpazhakan)
Member (Technical)

Tushar Kr.