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

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No. 76018 of 2024

(Arising out of Order-in-Appeal No.61/RAN/2024 dated 10.05.2024 passed by Commissioner (Appeals), Ranchi)

M/s Coal Mines Provident Fund Organization
(Near Police Line, Hirapur, Dhanbad-826001)

Appellant

VERSUS

Commr. of CGST & CX, Ranchi
(2nd 3rd, Grand Emerald Building, Ashok Nagar, Ranchi-834002)

Respondent

APPEARANCE:

Shri Sanjay Dixit, Advocate for the Appellant
Shri S. K. Jha, Authorized Representative for the Respondent

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

FINAL ORDER NO.77557/2025

Date of Hearing : 04.08.2025
Date of Pronouncement : 16.10.2025

ORDER [PER R. MURALIDHAR]

The appellant provides services in terms of Section 3(b) of Coal Mines Provident Fund and Miscellaneous Provisions Act 1948. On the ground that the appellant's services fall under the category of "Banking and other Financial Services" as per Section 65 (12) read with Section 65(105)(zm), Show Cause Notice was issued for the period 2006-07 to 2010-11 demanding Rs.50,89,14,218/-. The matter reached the Tribunal. Vide Final order No. 75300/2020, dated 25/02/2020, this Tribunal affirmed the demand. Thereafter, the appellant approached the Hon'ble High Court. While the matter was pending before the Hon'ble High Court, the department recovered Rs. 101,78,38,436/- on

04/10/2021. When the matter was under litigation before High Court, another amount of Rs. 175,81,10,395/- was recovered on 02/03/2022. Thus, the Revenue has totally recovered Rs. 277,59,48,831/- from the appellant. The matter once again came up before the Tribunal based on the directions of the High Court. Vide Miscellaneous Order No. 75248/2022 dated 3/08/2022, the appeal filed by the appellant was allowed by the Tribunal and direction was given to refund the already recovered amount to them. After this, the appellant regularly followed up with the Department for granting the refund. Finally, the refund was granted on 09/12/2022. The Adjudicating Authority granted the refund of Rs. 277,59,48,831/- which has been recovered from the appellant during 2021 and 2022 without granting any interest. On their appeal, seeking interest on this amount, the Commissioner (Appeals) has dismissed the same on the ground that no request for sanction of interest was made by the appellant. Being aggrieved, the appellant is before the Tribunal.

2. The Ld. Counsel appearing on behalf of the appellant submits that it is on record that the amount of Rs. 101,78,38,436/- was recovered by the Revenue on 04/10/2021 and further amount of Rs. 175,81,10,395/- was recovered on 02/03/2022. In the Interim Order No. 75248/2022 dated 03/08/2022, the entire demand has been found to be not legally sustainable and accordingly the appeal filed by the appellant was allowed. This shows that the appellant was not at all required to pay any Service Tax as demanded in the proceedings initiated against them. The Ld Advocate submits that the Revenue

cannot keep the illegally recovered amount from the appellant and return the same after many years without any interest payment.

3. The ld. Counsel relies on the case law of **Impressive Management Solutions Pvt. Ltd. Vs. CGST, Chandigarh in Service Tax Appeal No. 60268 of 2022, Final order No. 60090/2023 dated 06.04.2023,** wherein after considering the statutory provisions and various case laws, the Bench was pleased to Order payment of interest @12%. Similar decision was given in the case of **Soorajmull Baijnath Industries Pvt. Ltd. Vs. Commissioner of CE & ST, Rohtak**. He also relies on the decision of Hon'ble Karnataka High Court in the case of **Commr. of Central Excise (Appeals), Bangalore Vs. KVR Construction 2012 (26) STR 195 (Kar),** wherein it has been observed that when tax was legally not leviable, the amount paid by the assessee cannot be considered as dues or tax. Revenue had filed an appeal before the Hon'ble Supreme Court which was dismissed. Considering the above submission, the Ld. Counsel prays that the present appeal may be allowed granting interest 12% for the intervening period from the date of recovery by the Revenue till date of refund.

4. Learned AR reiterates the finding of the lower authorities. He submits that the refund was granted within the specified time of three months from the date of order passed by the Tribunal. Therefore, he submits that no interest is required to be paid.

5. Heard both sides and perused the appeal papers and document placed before me.

6. Admittedly after the protracted litigation, the issue has been decided by Tribunal in favour of the appellant vide Miscellaneous Order No. 75248/2022 dated 03/08/2022. It is also on record that even as the matter was pending before the Hon'ble High Court, the department recovered Rs. 101,78,38,436/- on 04/10/2021 and once again they have recovered Rs. 175,81,10,395/- on 02/03/2022. In view of the Miscellaneous Order No.75248/2022 dated 03/08/2022, it gets clarified that no Service Tax was payable by the appellant. There is nothing to indicate that this Interim Order passed by the Tribunal has been challenged by the Revenue before higher forum. Therefore, as on date, the Interim Order dated 03/08/2022 has reached finality with department accepting the stand that the services rendered by the appellant are not exigible to Service Tax payment. This being so, the recovery of the amounts on 04/10/2021 and 02/03/2022 has to be taken as illegally recovered amounts by the Dept. Though admittedly on those dates, there was no stay against the confirmed demand in the impugned Order-in-Original, the issue is as to whether Department can retain this amount without proper legal backing for the next few years and refund the same without any interest whatsoever. It has been decided by the Hon'ble Supreme Court in the case of Sandvik Asia Ltd. Vs. Commissioner – 2006 (196) E.L.T. 257 (S.C.)., holding that the Revenue cannot unjustly hold the amount pertaining to assessee and refuse to give interest on the pretext that there is no statutory provision to grant interest on the same. After considering the factual details, the Hon'ble

Supreme Court had directed to Revenue to refund the amount along with interest of 12%.

7. In the cited case law of Impressive Management Solutions Pvt. Ltd. Vs. CGST, Chandigarh, the Bench has held as under:

> *6. After considering the submissions by both the parties and the perusal of the decisions relied by both the parties I am of the opinion that the only issue involved in the present case relates to non sanctioning of interest on the refund sanctioned by the department and further the rate of interest of delayed refund. This issue has been considered by the Tribunal in various cases and it has been consistently held that the assessee is entitled to claim interest from the date of deposit till the date of payment at the rate of 12%. Further, I find this Tribunal in the case of Reba Textiles Ltd. after considering the various decisions held that the assessee is entitled to claim interest from the date of payment of initial amount till the date of its refund and further the Tribunal relied upon the decision of Kerala High Court as well as the decision of the Ahmadabad Tribunal and thereafter granted the interest of 12% per annum.*
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> *Xxxxxxxxxxxxxx*
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> *Further, I find that the arguments of the Revenue that Parley Agro Pvt. Ltd. Vs. Commissioner of Central Excise, Noida -2018 (360) E.L.T. 1005 (Tri.-All.) has been challenged before the Hon'ble Allahabad High Court and the appeal has been admitted will not help the Revenue in any way as no stay has been granted against the said decision. Further, the main thrust of the argument of the Ld. DR that in the present case the duty has been deposited voluntarily and not under protest also does not have any force because consistently it has been held that any amount that is deposited during pendency of the adjudication proceedings or investigation is in the nature of deposit made under protest as held by the Madras High Court in the case of CCE Vs. Pricol Limited - 2015 (320) ELT 703 (Mad). CCE Vs. Eveready Industries India Limited -2017 (357) ELT 11(All.) and Gujarat Engineering Works Vs. CCE -2013 (292) ELT 547 (Tri.-Ahmd.). Further, I find that there are certain contrary decisions relied upon by the Ld. DR but the decision of the Punjab and Haryana High Court in the case of Commissioner of Central Excise, Panchkula Vs. Ms.*

Riba Textiles Ltd. Cited (Supra) upholding the decision of the Tribunal in Riba Textiles is binding on this Tribunal and by following the ratio of the decision of the Punjab and Haryana High Court in the case of Riba Textiles, I am of the considered view that the appellant is entitled to claim interest on delayed refund from the date of deposit till the date of payment at the rate of 12% per annum.

8. Following the ratio of the cited case law, we hold that the Revenue is required to grant interest for the recovered amount from the date of recovery till the date of granting the refund.

9. We find that in the recent judgment, the Orissa High Court in the case of Vedanta Ltd. vide order dated 09.05.2025, has modified the interest rate to 6% per annum as against the 12% per annum granted by the Kolkata Tribunal. Therefore, we hold that the appellant would be entitled for interest @ 6% per annum.

10. The Adjudicating Authority is directed to grant the refund within 8 weeks from the date of receipt of this order.

(Order pronounced in the open court on 16.10.2025.)

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

Pooja