IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Excise Appeal No. 79231 of 2018

(Arising out of Order-in-Original No.125/ST/RKL-GST/2018 dated 30.08.2018 passed by Commissioner of GST & Central Excise, Bhubaneshwar)

M/s KJS Ahluwalia, **: Appellant**
In front of MMTC Weigh Bridge, At/P.O.-Barbil,
Dist.-Keonjhar, Odisha-758035.

VERSUS

Commissioner of GST & Central Excise, **: Respondent**
Civil Township, Rourkela, Odisha.

APPEARANCE:

Ms. Shreya Mundhra & Shri Adrish Dutta, Advocates 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. 75387/ 2026

DATE OF HEARING :09.03.2026

DATE OF DECISION:09.03.2026

Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order who was engaged in the mining of Iron Ores classifiable under SH 2601.11.11 to SH 2601.11.49 of Chapter 26 of the Central Excise Tariff Act, 1985 ("CETA"). The said Iron Ores were exempt from payment of Central Excise duty under Notification No. 04/2006-CE dated 01.03.2006 up to 16.03.2012 and under Notification No. 12/2012-CE dated 17.03.2012 with effect from 17.03.2012.

2. The Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar-Il Commissionerate issued two Show Cause Notices bearing C.No.

V(26)15/Adjn./B-11/108/2013/1934A dated 08.11.2013 and C.No. V(26)15/Adjn./B-11/62/2014/12526A dated 25.07.2014 alleging that the Appellant's processes of crushing and screening of Iron Ore amounted to manufacture of 'Iron Ore Concentrates, thereby proposing to deny the benefit of exemption notification applicable to 'Ores.' Both SCNs culminated in Order-in-Original No. CCE/BBSR-II/No.13-14/Commissioner/2013 dated 29.10.2013, wherein the erstwhile Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar-Il confirmed Central Excise duty of Rs. 1,96.54,28,109/- under Section 11 of the Act and imposed equal penalty under Section 11AC of the Act.

3. Aggrieved by the said Order-in-Original, the Appellant preferred Writ Petition No. 2113/2014 before the Hon'ble High Court of Orissa. The Hon'ble High Court, vide order dated 09.04.2014, relegated the Appellant to the alternative remedy available under Section 35G of the Act and waived the requirement of pre-deposit in excess of 10% of the duty demanded. The Appellant thereafter filed an SL.P before the Hon'ble Supreme Court of India, which was dismissed, with the Hon'ble Supreme Court directing the Appellant to comply with the High Court's order. Subsequently, the Hon'ble Supreme Court vide order dated 13.03.2015 extended the time for payment of the pre-deposit till the end of April 2015.

4. In compliance with the aforesaid orders, the Appellant filed Appeal No. EA-75746/14 before the Hon'ble CESTAT, Kolkata and deposited 10% of the

confirmed duty amounting to Rs. 19,65,50,000/- vide Challan-GAR-7 No. 60023 dated 28.04.2015.

5. The Hon'ble CESTAT, vide Final Order No. FO/75216-75220/2016 dated 15.02.2016/29.02.2016, set aside the Order-in-Original dated 29.10.2013 and remanded the matter for de-novo adjudication to examine the Appellant's entitlement to exemption under Notification No. 63/95-CE dated 16.03.1995 as amended. In view of the remand, as provided under Section 35FF of the Act, the Appellant became entitled to the refund of the pre-deposit along with interest.

6. The Appellant filed a refund claim before the jurisdictional Assistant Commissioner, Central Excise, Customs & Service Tax, Keonjhar Division as early as 31.05.2016, seeking refund of the pre-deposit of Rs. 19,65,50,000/- along with interest thereon from the date of deposit to the date of refund as mandated under Section 35FF of the Act. All relevant documents were duly submitted. The Appellant was further asked to submit self-attested copies of documents vide letter dated 25.07.2016 of the Superintendent (Refund), which were complied with on 08.08.2016. The matter was also brought to the notice of the Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar-Il vide letter dated 01.02.2017.

7. The Assistant Commissioner, Central Excise, Customs & Service Tax, Keonjhar Division, vide Order-in-Original No. R-36/KJR/2017 dated 21.06.2017 (i.c., after a delay of nearly one year and one month from the date of filing of the refund

claim), returned the pre-deposit of Rs. 19,65,50,000/- vide Cheque No. J288541 dated 30.06.2017. However, the interest mandatorily payable under Section 35FF of the Act was denied on the ground that the return of the pre-deposit was within 15 days of receipt of the 'complete claim' (the Appellant having furnished the copy of the CESTAT Appeal Memo only on 30.03.2017), and hence no interest was accruing under para 5.3 of CBEC Circular No. 984/08/2014-CX dated 16.09.2014.

8. The Appellant, aggrieved by the denial of interest, preferred an appeal before the Commissioner (Appeals), CGST, CX & Customs, Bhubaneswar. The Commissioner (Appeals), vide the Impugned Order-in-Appeal No. 125/ST/RKL-GST/2018 dated 30.08.2018, confirmed the rejection of interest on the same grounds as the Order-in-Original, thereby upholding a patently erroneous and non-application-of-mind order. The Appellant being aggrieved has preferred the present appeal before the Hon'ble Bench.

9. Against the said order appellant is before us.

10. The Ld. Counsel for the appellant submits that in terms of section 35FF of the Central Excise, 1944 the appellant is entitled to claim interest on the pre-deposit made by them and it is the contention of the appellant that the pre-deposit was made by the appellant which was in dispute and issue has been decided in favour of the appellant vide Tribunal's order dated 29.02.2016. In that circumstances, the appellant is entitled to claim interest on delayed refund. Therefore, impugned order qua denial of interest is to be set aside.

11. Heard the parties. Considered the submissions.

12. We find that in terms of Section 35FF of Central Excise Act, 1944 the appellant is entitled to claim interest at the rate of 6% per anum in terms of Notification No. 24/2014 C.Ex.(N.T.) dated 12.08.2014. Therefore, we hold that appellant is entitled for interest from the date of making pre-deposit @6% per anum till its realizations.

13. In view of this, we do not find any merit in the impugned order for denial of interest. Therefore, we set aside the impugned order and direct the authorities below to sanction the interest to the appellant @ 6% per anum from the date of deposit till its realizations within 30 days of the receipt of this order. The Appeal is disposed of in the above terms.

(Operative part of the order was pronounced in open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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