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

REGIONAL BENCH – COURT NO.1

Customs Appeal No.75451 of 2026

(Arising out of Order-in-Appeal No.Kol/Cus(Port)/DC/109/2026 dated 10.02.2026 passed by Commissioner of Customs (Appeals) , Kolkata)

The Commissioner of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

M/s Hactcom Agro Pvt. Ltd.
(Cabin No.1, Mezzanine Floor,The Summit Business Park Premises, C.S.L, Off. AndheriKurla Road, Near WEH Metro Station, Andheri (East), Mumbai-400093)

Respondent

Appearance:
Shri Mihir Ranjan, Spl. Counsel for the Appellant-Revenue
Shri R.N.Bandapadhyay, Advocate & Ms.Sukanya Ray,Consultant for the Respondent

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

FINAL ORDER NO.76214/2026

DATE OF HEARING : 18 AUGUST 2026

DATE OF PRONOUNCEMENT : 25 SEPTEMBER 2026

Per Ashok Jindal :

The Revenue is in appeal against the impugned order.

2. The facts of the case are that the respondent, M/s Hactcom Agro (P) Limited has imported Pisum Sativum (green/yellow peas) declaring the goods under CTH 07131000 vide Bill of Entry No. 5015280 dated 31.01.2018. The Bill of Entry was self-assessed to BCD 50% under Section 17(1) of the Customs Act, 1962 as per Notification No. 50/2017 dated 30.06.2017 and subsequent amendment vide Notification No. 84/2017 dated 08.11.2017. Initially, the said item was covered under serial No.20 of Customs Notification 50/2017 dated 30.06.2017. The same was amended vide notification No. 84/2017 dated 08.11.2017 and

serial no. 20A was inserted wherein at column no. 3 "Peas (Pisum Sativum) was mentioned with BCD at the rate of 50%.

2.1 The goods were given Out of Charge and were cleared for home consumption by the importer. Subsequent to that, the importer noticed that there was another amending notification no. 93/2017 dated 21.12.2017 which placed the Pisum Sativum under serial no. 20 with the BCD rate of duty being 'NIL' and thus the original position prevailing prior to the issuance of Amending Notification No.84/2017 dated 08.11.2017 stood restored.

2.2 The goods were imported and cleared during January and February 2018 Le during the period when the Notification No.93/2017 (21.12.2017 to 28.02.2018) was effective and accordingly the importer is of the view that the goods should have been assessed at NIL rate as per Notification No.93/2017-Customs dated 21.12.2017 instead of BCD @ 50% as per the Notification No.84/2017-Customs dated 08.11.2017.

2.3 In view of the above observations, the importer filed applications under Section 149 of the Custom Act, 1962 for amendment of their respective Bills of Entry along with a request to allow the refund of excess paid duty to, Appraising Group VI, Kolkata Port Commissionerate inadvertently vide Sevottam Receipt No.0016102 dated 22.10.2018. The Assessing Group forwarded the application to Appraising Refund Section for further necessary action on 25.01.2019 and meanwhile an application for refund was also submitted by the importer vide Sevuttam receipt No. 001199 dated 24.01.2019. On basis of that application, a file bearing no.S110-40/2019 ARS (port) dated 25.01.2019 was opened.

2.4 A letter was sent to Appraising Group-I on dated 01.02.2019 to inform the status of the Bill of Entry and whether the amount of refund quantified by the importer is justified. In response to that letter, the Assistant Commissioner of Customs (Appraising Group-I) informed vide ON dated 06.02.2019 that the Bill of Entry has already been finalized However, the Assessing group did not mention about the quantification or eligibility of the refund application by the importer.

2.5 Subsequently, the claim for refund was rejected by the then Assistant Commissioner of Customs (Appraising Refund Section) vide Order-in-Original No. KOL/CUS/AC/103 ARS/2019 dated 07.02.2019 on the ground that the claimant has not filed appeal before the Commissioner of Customs (Appeals), Kolkata as per Board Circular No.24/2004 dated 18.03.2004 wherein it has been directed to all concerned authorities that any refund claimed by the respondent is not maintainable if the assessment has not been challenged at any stage which becomes final.

2.6 Being aggrieved with the Order-in-Original, the respondent filed an appeal before the ld.Commissioner (Appeals) of Customs, who allowed the refund.

2.7 Being aggrieved with the order of Ld.Commissioner (Appeals) of Customs, the Revenue has filed the appeal before this Tribunal.

2.8 This Tribunal vide its order dated 20.03.2024 rejected the Revenue's appeal.

2.9 Being aggrieved with the Tribunal's Order, the Revenue filed an appeal before the Hon'ble Supreme Court. The Hon'ble Supreme Court vide its order dated 15.07.2025 dismissed the Revenue's appeal both on the grounds of delay as well as on merits.

2.10 Consequent to the order of the Hon'ble Apex Court, the refund was sanctioned on 16.09.2025 without interest.

2.11 The respondent filed the appeal before the ld.Commissioner (Appeals), who vide its order dated 10.02.2026 allowed the claim of interest at the rate of 6% per annum to be computed from three months after original application filed by the respondent i.e. from 30.01.2019 relying on the decision of the Hon'ble Apex Court in the case of Ranbaxy Laboratories Ltd. Vs. Union of India reported in 2011 (273) ELT 3 (SC).

2.12 Against the said order, the Revenue has filed this appeal before this Tribunal.

3. From the record, it is seen that vide order dated 01.07.2026, the stay application filed by the Revenue was dismissed and Early Hearing Application filed by the Respondent was allowed and the matter has been argued by the Spl.Counsel for the Revenue, stating that the interest is payable within three months from the date of order of Hon'ble Apex Court dated 15.07.2025. Admittedly, the refund claim has been sanctioned on 16.09.2025. Therefore, the respondent is not entitled to claim the interest on account of delay refund. To support his contention, he relied on the decision of the Hon'ble High Court of Calcutta in the case of Commissioner of Customs (Port), Kolkata Vs. Vedanta Ltd. reported in (2025) 36 Centax 392 (Cal) in Custa No.14 of 2025 vide its Order dated 10.09.2025.

4. The respondent contested the appeal filed by the Revenue and submits that they are entitled for interest in terms of Section 27A of the Customs Act, 1962 within three months from the date of filing of application of refund and heavily relied upon the decision of the Hon'ble Apex Court in the case of Ranbaxy Laboratories Ltd. (supra). They also distinguished the decision of the Hon'ble High Court of Calcutta in the case of Vedanta Ltd. (supra) to say that in the case of Vedanta Ltd., there was no valid application and refund has not been crystallized in Vedanta. The appellant further submits that the Department cannot take the benefit of its own litigation. As the Revenue has accepted the original refund application, in that circumstances, the decision of in the case of Ranbaxy Laboratories Ltd. (supra) is squarely applicable to the facts of this case. Therefore, they are entitled to claim the interest after three months from the date of filing of refund claim on 29.10.2018 till its realization.

5. Heard both the parties and considered the submissions.

6. We find that the Spl.Counsel for the Revenue has heavily relied upon the decision of the Hon'ble Calcutta High Court in the case of Vedanta Limited (supra) and relied upon the observations of the Hon'ble High Court of Calcutta, which are recorded as under :

> *"**21.** Section 27 of the Customs Act, 1962 (the Act) deals with claim for refund of duty. Sub Section (1) states that any person claiming refund of any duty or interest (a) paid by him; or (b) borne by him; may make an application in such form and manner as may be prescribed for such refund to the Assistant Commissioner of Customs or the Deputy Commissioner of Customs before expiry of one year from the date of payment of*

such duty or interest. Thus, it is seen that time frame has been prescribed under the statute for making an application in such form and manner as may be prescribed for refund. Therefore, the court even in exercise of its powers under Article 226 of the Constitution cannot direct the authorities to do something which is not provided in the statute.

22. *Furthermore, Section 27(1) prescribed the procedure for claiming refund and also provides the period within which refund should be sought for and it does not speak about as to whether refund is permissible or the ground on which the refund could be sought. Thus on a plain reading of the Section 27, it is amply clear that refund if any arising under the Act are regulated by the provisions of Section 27 and the intention of the legislature does not envisage any refund except in accordance with the procedure prescribed thereunder. Equally, there is no question of application of any other law to enable the Customs authorities to consider the claim for refund of duty. That apart, Section 27(1) also prescribes the authorities before whom the refund application has to be made in such form and manner as may be prescribed and those authorities being the Assistant Commissioner of Customs or Deputy Commissioner of Customs and therefore this court is of the view that there cannot be an order for refund without an application and such an application has to be made within the time prescribed under the statute. Assuming for the sake of argument, the direction issued by the court in a writ petition holding that the assesse therein is entitled to refund of duty paid which according to the court was retained by the department without the authority of law, even if such direction is issued the assessee has to make an application in such form and manner as may be prescribed before the appropriate authority who will then proceed to comply with the direction issued by the court. Therefore, we are unable to persuade ourselves to agree with the findings of the learned tribunal that the formal form 102 filed by the respondent along with the covering letter is not required to be* *filed since the refund is only consequential action after the rectification is carried out. This finding virtually negates the statutory provisions namely Section 27(1) of the Act and therefore has to be held to be erroneous finding.*

23. *Having held that the refund claim cannot be processed without the application in the statutory form, it is required to be seen as to how such a form should be processed by the prescribed authority. In Sandvik Asia Limited, it was held that the award of interest on the refunded amount is per statutory provisions of the law as it stood and on the peculiar facts and circumstances of each case. It was further held that a specific provision has been made under the statute, such provision has to govern the plea and therefore the court has to take all relevant factors into consideration while awarding the rate of interest on the compensation.*

24. *Therefore, two things have to be borne in mind namely the statutory provisions and the facts of the case on hand to determine the issue as to whether the respondent would be entitled to payment of interest and if the question is answered in the affirmative then the date from which he is entitled for interest and the rate of interest.*

25. *While on this issue, we take note of the Section 27A of the Act which deals with interest on delayed refund. It states that if any duty ordered to be refunded under Sub Section (2) of Section 27 to an applicant is not refunded within three months from the date of receipt of the application under Sub Section (1) of Section 2, there shall be paid to the applicant interest at such rate not below 5% not exceeding 30% as is for the time being fixed by the Central Government by notification in the official gazette, on such duty from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty. The explanation states that where any order of refund made by the Commissioner (Appeals) the appellate* *tribunal or any court against the order of Assistant Commissioner of Customs or Deputy Commissioner of Customs under Sub Section (2) of Section 27, the order passed by the Commissioner (Appeals), the appellate tribunal or as the case may be, by the court shall be deemed to be an order passed under that Sub Section for the purpose of Section 27A. Thus, the language used in the explanation in Section 27A of the Act also covers the case where the order passed by the Assistant Commissioner of Customs or the Deputy Commissioner of Customs under Section 27(2) of the Act is challenged before the appellate authority or the tribunal or the court and the order passed either by the appellate authority or by the tribunal or by the court, the same shall be deemed to an order passed under Sub Section (2) of Section 27 for the purpose of Section 27A.*

26. *The Customs Act is an Act to consolidate and amend the law relating to customs. The Act aims to sternly or expeditiously deal with smuggled goods and curbs the dent on revenue thus caused. The Act provides for confiscation of goods and conveyance and imposition of penalties where any goods which are imported contrary to any prohibition imposed or under the Act or any other law for the time being enforced. This is the object and the scheme of the Act as explained by the Hon'ble Supreme Court in Commissioner of Customs (Preventive), Mumbai v. M. Ambalal and Company (2011) 2 SCC 74 = 2010 (260) E.L.T. 487 (S.C.).*

27. *Section 27A was inserted by the Act 22 of the 1955 with effect from 26.05.1995, till insertion of Section 27A there was no statutory right to claim payment of interest on delayed under the Act and it is only after the insertion this statutory provision was incorporated in the statute. Thus, a manifest that any person claiming refund of the duty or interest paid by him or payment by him is required to make an application in such form and manner as may be prescribed for such refund to the authority which has been specified namely the Assistant Commissioner of Customs or*

Deputy Commissioner of Customs within the time stipulated under the statute. On compliance with these requirement under Sub Section (1) of Section 27 in terms of Sub Section (2) of Section 27, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied that the whole or any part of the duty and interest, if any, paid on such duty paid by the applicant is refundable, he may make an order accordingly and the amount so determined shall be credited to the fund. In terms of the proviso, instead of the amount being credited to the fund it will be paid to the applicant if such amount relates to anyone of the payment as contained in Clauses (a) to (g) in Sub Section (2) of Section 27 of the Act.

28. *Bearing in mind, the scheme of the Section 27(1)(2) if read along with the explanation in Section 27A of the Act, the date of effecting refund gets postponed in cases where order have been passed by the Commissioner (Appeals) or the appellate tribunal or the court. Such circumstances would arise if the authority namely the Assistant Commissioner of Customs or the Deputy Commissioner of Customs rejects an application for refund filed under Section 27(1) in such form and such manner as may be prescribed within the time limit and the assessee carries the matter on appeal before the Commissioner (Appeals) and when he is unsuccessful before the tribunal carries the matter on appeal to the High Court and in the event of he succeeding in such appeal and held to be entitled to a refund such order passed by the Court or the tribunal or the Commissioner of Appeals as the case may be shall be deemed to be order passed under Sub Section (2) of Section 27 for the purpose of Section 27A of the Act. In such circumstances, the right to claim interest under Section 27A of the Act shall be from the date immediately after the expiry of three months from the date of receipt of such application (in terms of Section 27(1) till the date of refund of such duty.*

29. *The above understanding of the law is required to be applied to the facts and circumstances of the case. The tribunal has elaborately referred to all earlier proceedings and in paragraph 37 as set out the factual matrix in a tabulated form and what is conspicously missing is that the date on which the application for refund was submitted by the respondent which has been omitted to be mentioned. It is admitted fact that the respondent submitted the application for refund only on 05.08.2022. The tribunal was conscious of this fact, yet it proceeds to hold that there is no necessity for filing such an application which in the preceding paragraphs, we had held to be erroneous finding. The Act provides for a hierarchy of remedies. The assessee as well as the department are entitled to avail those remedies. No person can be faulted or penalized for availing an appellate remedy or preferring an appeal before the tribunal or the court of law. The mistake committed by the learned tribunal is precisely on this issue by finding fault with the department while passing orders of rejection of request for rectification made under Section 154 of the Act. The department cannot be prevented from raising their contentions both legal and factual. The consistent case of the department till date of grant of refund by order dated 05.09.2023 is that the request made by the respondent cannot be processed under Section 154 of the Act. In law, if the department is entitled to take such stand, they cannot be penalized for doing so and availing the hierarchy of remedies and though ultimately, they were unsuccessful the time spent while exercising the statutory remedies available cannot be rekoned and put against the department alleging inordinate delay.*

30. *The department is right in contending that the amount of refund got crystalized for the first time only after Order-in-Original dated 05.09.2023 was passed. Prior to that neither the order of the Commissioner of Appeals nor the tribunal nor the court quantified the amount or crystalized the amount of refund to which the respondent was entitled to. Therefore to allege that* *the department had slept over the matter is a wrong conclusion considering the facts and circumstances of the case. As could be seen from the dates and events filed by the learned advocates of both sides, it is seen that the department had been consistent in its stand that the request made by the respondent cannot be entertained under Section 154 of the Act. The department is entitled to raise legal and factual contention as the statute provides for such avenue. Ultimately, the matter was put to rest after the appeal filed by the revenue was dismissed challenging the order passed by the tribunal and there was a direction issued in writ proceeding and ultimately the application for refund dated 05.08.2022 was processed under 06.09.2023. Refund was paid to the respondent. This payment being well within time permitted no interest is payable to the appellant. The learned tribunal erred in shifting the date from which the respondent would be entitled to interest to a date much prior to the application for refund was made in terms of Section 27(1) of the Act which was made only on 05.08.2022 and therefore the award of interest from 11.01.2011 is not sustainable."*

Therefore, he submits that after the decision of the Hon'ble Apex Court in the case of Ranbaxy Laboratories Ltd. (supra), the refund has been considered in the case of Vedanta (supra), they are not entitled to claim the interest.

7. We have gone through the decision of the Hon'ble High Court of Calcutta in the case of Vedanta Ltd. (supra), wherein the Hon'ble High Court has taken note of the decision of the Hon'ble Apex Court in the case of Ranbaxy Laboratories Ltd. (supra) wherein the Hon'ble Apex Court has held as under :

> ***"15.*** *In view of the above analysis, our answer to the question formulated in para (1) supra is that the liability of the revenue to pay interest under Section 11BB of the Act commences from the date of expiry of three months from the date of receipt of application for refund under Section 11B(1) of the Act and not on the expiry of the said period from the date on which order of refund is made."*

But the Hon'ble High Court of Calcutta in the Vedanta's case, has not given any findings in respect of the said decision why the same is not applicable to the facts of the case.

8. In the case of Rainboxy Laboratories Ltd.(supra), the Hon'ble Apex Court has examined the issue and observed as under :

> ***"8.*** *Before evaluating the rival contentions, it would be necessary to refer to the relevant provisions of the Act. Section 11B of the Act deals with claims for refund of duty. Relevant portion thereof reads as under :*
>
> ***"11B. Claim for refund of duty. -*** *(1) Any person claiming refund of any duty of excise and interest, if any, paid on such duty may make an application for refund of such duty and interest if any, paid on such duty to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise before the expiry of one year from the relevant date in such form and manner as may be prescribed and the application shall be accompanied by such documentary or other evidence including the documents referred to in section 12A as the applicant may furnish to establish that the amount of duty of excise and interest, if any, paid on such duty in relation to which such refund is claimed was collected from or paid by him and the incidence of such duty and interest if any, paid on such duty had not been passed on by him to any other person :*

Provided *that where an application for refund has been made before the commencement of the Central Excises and Customs Laws (Amendment) Act, 1991, such application shall be deemed to have been made under this sub-section as amended by the Act and the same shall be dealt with in accordance with the provisions of sub-section (2) as substituted by that Act :*

Provided *further that the limitation of one year shall not apply where any duty has been paid under protest.*

(2) If, on receipt of any such application, the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise is satisfied that the whole or any part of the duty of excise and interest, if any, paid on such duty paid by the applicant is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund :

Provided *that the amount of duty of excise and interest, if any, paid on such duty of excise as determined by the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise under the foregoing provisions of this sub-section shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to ---*

(a) rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;

(b) unspent advance deposits lying in balance in the applicant's current account maintained with the Commissioner of Central Excise;

(c) refund of credit of duty paid on excisable goods used as inputs in accordance with the rules made, or any notification issued, under this Act;

(d) the duty of excise and interest, if any, paid on such duty paid by the manufacturer, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(e) the duty of excise and interest, if any, paid on such duty borne by the buyer, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(f) the duty of excise and interest, if any, paid on such duty borne by any other such class of applicants as the Central Government may, by notification in the Official Gazette, specify :

***Provided** further that no notification under clause (f) of the first proviso shall be issued unless in the opinion of the Central Government, the incidence of duty and interest, if any, paid on such duty has not been passed on by the persons concerned to any other person.*

(3) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal of any Court in any other provision of this Act or the rules made thereunder or any other law for the time being in force, no refund shall be made except as provided in sub-section (2).

(4) ....

(5) ....

Section 11BB, the pivotal provision, reads thus :

"11BB. Interest on delayed refunds. -

If any duty ordered to be refunded under sub-section (2) of section 11B to any applicant is not refunded within three months from the date of receipt of application under sub-section (1) of that section, there shall be paid to that applicant interest at such rate, not below five per cent and not exceeding thirty per cent per *annum as is for the time being fixed by the Central Government, by Notification in the Official Gazette, on such duty from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty :*

Provided that where any duty ordered to be refunded under sub-section (2) of section 11B in respect of an application under sub-section (1) of that section made before the date on which the Finance Bill, 1995 receives the assent of the President, is not refunded within three months from such date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of refund of such duty.

Explanation : Where any order of refund is made by the Commissioner (Appeals), Appellate Tribunal or any Court against an order of the Assistant Commissioner of Central Excise, under sub-section (2) of section 11B, the order passed by the Commissioner (Appeals), Appellate Tribunal or, as the case may be, by the Court shall be deemed to be an order passed under the said sub-section (2) for the purposes of this section."

9. *It is manifest from the afore-extracted provisions that Section 11BB of the Act comes into play only after an order for refund has been made under Section 11B of the Act. Section 11BB of the Act lays down that in case any duty paid is found refundable and if the duty is not refunded within a period of three months from the date of receipt of the application to be submitted under sub-section (1) of Section 11B of the Act, then the applicant shall be paid interest at such rate, as may be fixed by the Central Government, on expiry of a period of three months from the date of receipt of the application. The Explanation appearing below Proviso to Section 11BB introduces a deeming fiction that where the order for refund of duty is not made by the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise but by an Appellate Authority or the Court, then for* *the purpose of this Section the order made by such higher Appellate Authority or by the Court shall be deemed to be an order made under sub-section (2) of Section 11B of the Act. It is clear that the Explanation has nothing to do with the postponement of the date from which interest becomes payable under Section 11BB of the Act. Manifestly, interest under Section 11BB of the Act becomes payable, if on an expiry of a period of three months from the date of receipt of the application for refund, the amount claimed is still not refunded. Thus, the only interpretation of Section 11BB that can be arrived at is that interest under the said Section becomes payable on the expiry of a period of three months from the date of receipt of the application under sub-section (1) of Section 11B of the Act and that the said Explanation does not have any bearing or connection with the date from which interest under Section 11BB of the Act becomes payable.*

10. *It is a well settled proposition of law that a fiscal legislation has to be construed strictly and one has to look merely at what is said in the relevant provision; there is nothing to be read in; nothing to be implied and there is no room for any intendment. [See: Cape Brandy Syndicate v. Inland Revenue Commissioners, [1921] 1 K.B. 64 and Ajmera Housing Corporation & Anr. v. Commissioner of Income Tax, (2010) 8 SCC 739].*

11. *At this juncture, it would be apposite to extract a Circular dated 1st October 2002, issued by the Central Board of Excise & Customs, New Delhi, wherein referring to its earlier Circular dated 2nd June 1998, whereby a direction was issued to fix responsibility for not disposing of the refund/rebate claims within three months from the date of receipt of application, the Board has reiterated its earlier stand on the applicability of Section 11BB of the Act. Significantly, the Board has stressed that the provisions of Section 11BB of the Act are attracted "automatically"* *for any refund sanctioned beyond a period of three months. The Circular reads thus :*

"Circular No. 670/61/2002-CX, dated 1-10-2002

F. No. 268/51/2002-CX.8

Government of India

Ministry of Finance (Department of Revenue)

Central Board of Excise & Customs, New Delhi

Subject : Non-payment of interest in refund/rebate cases which are sanctioned beyond three months of filing - regarding

I am directed to invite your attention to provisions of section 11BB of Central Excise Act, 1944 that wherever the refund/rebate claim is sanctioned beyond the prescribed period of three months of filing of the claim, the interest thereon shall be paid to the applicant at the notified rate. Board has been receiving a large number of representations from claimants to say that interest due to them on sanction of refund/rebate claims beyond a period of three months has not been granted by Central Excise formations. On perusal of the reports received from field formations on such representations, it has been observed that in majority of the cases, no reason is cited. Wherever reasons are given, these are found to be very vague and unconvincing. In one case of consequential refund, the jurisdictional Central Excise officers had taken the view that since the Tribunal had in its order not directed for payment of interest, no interest needs to be paid.

2. In this connection. Board would like to stress that the provisions of section 11BB of Central Excise Act, 1944 are attracted automatically for any refund sanctioned beyond a period of three months. The jurisdictional Central Excise Officers are not required to wait for instructions from any superior officers or to look for instructions in the orders of higher appellate authority for *grant of interest. Simultaneously, Board would like to draw attention to Circular No. 398/31/98-CX., dated 2-6-98 [1998 (100) E.L.T. T16] wherein Board has directed that responsibility should be fixed for not disposing of the refund/rebate claims within three months from the date of receipt of application. Accordingly, jurisdictional Commissioners may devise a suitable monitoring mechanism to ensure timely disposal of refund/rebate claims. Whereas all necessary action should be taken to ensure that no interest liability is attracted, should the liability arise, the legal provision for the payment of interest should be scrupulously followed."*

(Emphasis supplied)

12. *Thus, ever since Section 11BB was inserted in the Act with effect from 26th May 1995, the department has maintained a consistent stand about its interpretation. Explaining the intent, import and the manner in which it is to be implemented, the Circulars clearly state that the relevant date in this regard is the expiry of three months from the date of receipt of the application under Section 11B(1) of the Act.*

13. *We, thus find substance in the contention of learned counsel for the assessee that in fact the issue stands concluded by the decision of this Court in U.P. Twiga Fiber Glass Ltd. (supra). In the said case, while dismissing the special leave petition filed by the revenue and putting its seal of approval on the decision of the Allahabad High Court, this Court had observed as under :*

"Heard both the parties.

In our view the law laid down by the Rajasthan High Court succinctly in the case of J.K. Cement Works v. Assistant Commissioner of Central Excise & Customs reported in 2004 (170) E.L.T. 4 vide Para 33 :

"A close reading of Section 11BB, which now governs the question relating to payment of interest on belated payment of interest, makes it clear that relevant date for the purpose of determining the liability to pay interest is not the determination under subsection (2) of Section 11B to refund the amount to the applicant and not to be transferred to the Consumer Welfare Fund but the relevant date is to be determined with reference to date of application laying claim to refund. The non-payment of refund to the applicant claimant within three months from the date of such application or in the case governed by proviso to Section 11BB, non-payment within three months from the date of the commencement of Section 11BB brings in the starting point of liability to pay interest, notwithstanding the date on which decision has been rendered by the competent authority as to whether the amount is to be transferred to Welfare Fund or to be paid to the applicant needs no interference."

The special leave petition is dismissed. No costs."

14. *At this stage, reference may be made to the decision of this Court in Shreeji Colour Chem Industries (supra), relied upon by the Delhi High Court. It is evident from a bare reading of the decision that insofar as the reckoning of the period for the purpose of payment of interest under Section 11BB of the Act is concerned, emphasis has been laid on the date of receipt of application for refund. In that case, having noted that application by the assessee requesting for refund, was filed before the Assistant Commissioner on 12th January 2004, the Court directed payment of Statutory interest under the said Section from 12th April 2004 i.e. after the expiry of a period of three months from the date of receipt of the application. Thus, the said decision is of no avail to the revenue.*

15. *In view of the above analysis, our answer to the question formulated in para (1) supra is that the liability of the revenue to pay interest under Section 11BB of the Act commences from the*

> *date of expiry of three months from the date of receipt of application for refund under Section 11B(1) of the Act and not on the expiry of the said period from the date on which order of refund is made."*

and granted interest after expiry of three months from the date of receipt of the application of refund under Section 11B(1) of the Act and not on the expiry of the said period from the date on which the order of refund is made.

9. In this case, admittedly, the application for refund was filed on 29.10.2018 and three months expired on 28.01.2019 and the refund has been granted to the assessee after long litigation on 16.09.2025, therefore, relying on the decision of the Hon'ble Apex Court in the Ranbaxy Laboratories' case, we hold that the respondent is entitled for interest from 28.01.2019 till 16.09.2025.

10. In view of the above, we do not find any merit in the Revenue's appeal, accordingly, the same is dismissed.

(Pronounced in the open court on **25.09.2026**)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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