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

REGIONAL BENCH – COURT NO.1

<u>Customs Appeal No.75863 of 2024</u>

(Arising out of Order-in-Appeal No.Kol/Cus/Airport/KS/333-334/2024 dated 20.05.2024 passed by Commissioner (Appeals) of Customs, Kolkata)

M/s Bagree Enterprises
(City Kotwall Chhotapara, Chhatisgarh, Raipur-492001)

Appellant

VERSUS

Commissioner of Customs (AP & Admn.), Kolkata
(15/1, Strand Road, Kolkata-700001)

Respondent

WITH

<u>Customs Appeal No.76810 of 2025</u>

(Arising out of Order-in-Appeal No.Kol/Cus/Airport/KS/81/2025 dated 21.02.2025 passed by Commissioner (Appeals) of Customs, Kolkata)

M/s Bagree Enterprises
(H.No.C/236/35/405, Behind Zudio Clothing Centre,Shailendra Nagar,Raipur-492001)

Appellant

VERSUS

Commissioner of Customs (AP & Admn.), Kolkata
(15/1, Strand Road, Kolkata-700001)

Respondent

<u>APPERANCE :</u>

Shri Kamal Jeet Singh, Advocate for the Appellant
Shri Subrata Debnath, Authorized Representative for the Respondent

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

FINAL ORDER NO.76215-76216/2026

<u>DATE OF HEARING : 16 SEPTEMBER 2026</u>

<u>DATE OF PRONOUNCEMENT : 25 SEPTEMBER 2026</u>

<u>Per Ashok Jindal :</u>

Both the appeals are having a common issue, therefore, the same are disposed of by a common order.

2. The facts of the case are that the appellant filed Bill of Entry on 14.08.2012 and cleared the goods on payment of duty.

2.1 An investigation was conducted on 17.12.2014 and 05.03.2014, wherein the appellant deposited a sum of Rs.26,00,000/-.

2.2 Thereafter, the matter was adjudicated and demand of Rs.30,00,000/- was confirmed vide Order dated 25.02.2016.

2.3 The said order was appealed before the ld.Commissioner (Appeals) and the ld.Commissioner (Appeals) vide its Order dated 18.04.2017, set aside the adjudication order confirming demand.

2.4 The said order was challenged before this Tribunal and this Tribunal has dismissed the appeal filed by the Department on 28.11.2017.

2.5 The said order of this Tribunal was challenged before the Hon'ble Calcutta High Court and the Hon'ble Calcutta High Court remanded back to this Tribunal on 16.01.2017.

2.6 In remand proceedings, this Tribunal dismissed the appeal filed by the Revenue on 28.07.2022.

2.7 Thereafter, the appellant requested for refund of Rs.26,00,000/- deposited during course of investigation in terms of Board Circular No.948/08/2014-CX dated 16.09.2014 on 13.10.2022.

2.8 The said refund claim was sanctioned to the appellant along with interest from the date of deposit till its realization vide order dated 16.06.2023.

2.9 Another order was also passed by the adjudicating authority, wherein refund was allowed , but no interest was allowed vide Order dated 19.06.2023.

2.10 The Revenue challenged the order dated 16.06.2023 before the ld.Commissioner (Appeals) and the appellant also filed an appeal against the said order dated 19.06.2023 before the ld.Commissioner (Appeals).

2.11 On 08.09.2023, a Corrigendum was passed allowing interest on the amount of refund.

2.12 On 20.05.2024, the ld.Commissioner (Appeals) disposed of both the appeals filed by the appellant as well as by the Revenue holding that the interest is not payable and he remanded the matter back for denovo adjudication to follow the principles of natural justice.

2.13 The appellant filed appeal against the order of the ld.Commissioner (Appeals) dated 20.05.2024. In remand proceedings, the adjudicating authority again passed the order on 31st August, 2024 disallowing the interest to the appellant.

2.14 The said order was also challenged before the ld.Commissioner (Appeals), who dismissed the appeal filed by the appellant.

2.15 Against the said order, also the appellant is in appeals before me.

3. The ld.Counsel for the appellant relies on decision of the Hon'ble High Court of Paradeep Phosphates Ltd. Vs. Additional Commissioner of CGST & Central Excise & Customs (Appeals), Bhubaneswar reported in 2026 (106) GSTL 112 (Ori), wherein the Hon'ble High Court allowed the interest from the date of deposit till its realization. Therefore, he prays, the interest be granted.

4. On the other hand, the ld.A.R. for the Revenue submitted that the interest of refund claim is to be paid after three months from the date of filing of the refund claim. Admittedly, in this case, the refund has been sanctioned within three months from the date of filing of the refund claim. In that circumstances, no interest is payable.

5. Heard both the parties and considered the submissions.

6. I find that the issue in both the appeals is to be decided whether the appellant is entitled to claim interest from the date of deposit till its realization or not ?

7. The said issue has been dealt with in detail by the Hon'ble High Court of Orissa, wherein it is held that :

> *"non-consideration of claim for interest on the amount refunded to the petitioner from the date of deposit till date of payment is the subject matter in the present writ petition."*

8. The Hon'ble High Court of Orissa after considering the various judicial pronouncements on subject issue, had come to the conclusion, which is as under :

> ***"7.2*** *In such view of the matter, this Court cannot sustain the Order dated 15-1-2024 passed by the Additional Commissioner, GST (Appeals) in Order-in-Appeal No. 158/GST/BBSR/ADC/2023-24 affirming the Order dated 6-2-2023 passed by the Assistant Commissioner, Central GST and Central Excise, Cuttack-II Division, Cuttack in Form RFD-06 refusing to grant interest on the amount of refund. Hence, the Order dated 15-1-2024 vide Annexure-10 is set aside and Order dated 6-2-2023 vide Annexure-8 is quashed. Therefore, taking cue from the Order dated 5-8-2024 passed in the instant case, as referred to above, this Court directs the opposite parties to pay interest on the amount of the IGST as refunded.*
>
> ***7.3*** *Since the question involved in the present case relates to interest on amount refunded, it is clear that*

the petitioner is entitled to interest on the amount refunded with respect to IGST collected on "ocean freight" for the period the opposite parties retained the same and restrained the petitioner from utilising it. In other words, such interest should commence to run from the date on which the petitioner parted with the money in the first instance and was restrained from using such amount representing the IGST on the component of "ocean freight".

7.4 *The refund itself is as a result of a finding that the tax ought not to have been collected from the petitioner in the first place. If the tax has to be refunded, and in fact, has been refunded to the petitioner, clearly, therefore, in the considered view of the Court, the interest thereon should begin to run from the date of the deposit of such tax. Consequently, the opposite party-competent authority will pay to the petitioner simple interest @ 6% per annum on the amount of refund from the period beginning with the date of making payment of the IGST on "ocean freight" in the first instance till the date of actual payment of refund made which shall not be more than eight weeks from today. If there is any further delay than the said period in payment of interest on the refunded amount, the authority concerned will be liable to pay simple interest @9% per annum on the sum refunded for the period of delay.*

8. *With the aforesaid observations and directions, the writ petition stands disposed of and pending Interlocutory Application(s), if any, is also disposed of, but in the circumstances there shall be no order as to costs."*

9. Therefore, following the decision of the Hon'ble High Court of Orissa, I found that admittedly, in this case, the Customs duty was not

payable by the appellant in the first place, therefore, the interest should payable from the date of deposit to its realization.

10. Therefore, I hold that the appellant is entitled to get the interest from the date of payment till its realization.

11. In these terms, both the appeals are disposed of.

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

(Ashok Jindal)
Member (Judicial)

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