CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>MUMBAI</u>

REGIONAL BENCH – COURT NO.405

ST Appeal No. 87249 of 2018

(Arising out of Order-in-Appeal No. CD/TR(Appeals)/MC/ 156/ 2017-18 dated 01.03.2018 passed by the Commissioner of GST & Central Excise, Thane Rural)

Hind Aluminium Industries Ltd ....Appellant
B-1 Tulsi Vihar Worli Naka DR AB Road
Mumbai-400018

VERSUS

C.C.G.S.T, Mumbai Central ....Respondent
C.Ex. Building, Chruchgate,
Mumbai -400020

<u>APPERANCE:</u>

Shri Mr. Chirag Shetty, Advocate for the Appellant
Shri Mr. S.K. Hatangadi, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85848/2019

Date of Hearing: 04.04.2019
Date of Decision: 04.04.2019

AJAY SHARMA:

During the course of arguments Learned Counsel appearing for the appellant after arguing on the issue of testing and analysis, submitted that there is delay on the part of the Revenue in granting refund to the Appellant. According to him, this refund application is of the year 2008 and there is almost 10 years delay in granting refund by the department and therefore, the Appellant is entitled for interest also on the said amount of refund. In support of his submission regarding interest, he relied upon the decision of the

Hon'ble High Court of Judicature at Bombay in the matter of Jindal Truck Pvt Ltd. Vs. India reported in 2016 (342) ELT 17 (Bombay). He fairly submitted that so far as the issue of interest is concerned the Appellant did not raise the same before the lower authorities and prayed that the matter may be remanded to the authority below to re-consider the issue of testing and analysis and also the issue of interest.

2. I find force in the submissions made by Learned Counsel. Admittedly, there was no occasion for the lower authorities to deal with the issue of interest raised by the learned Counsel. Therefore on the issue of interest as well as on the issue of testing and analysis service, I am inclined to remand the matter before the Commissioner (Appeals) with a direction to decide both the issues after giving opportunity of hearing to the Appellant. The Appeal is therefore allowed by way of remand.

(Dictated and pronounced in open Court on)

(Ajay Sharma)
Member (Judicial)

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