

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, MUMBAI**

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 85940 of 2019

(Arising out of Order-in-Appeal No. MUM-CUS-RN-IMP-125-2018-19 dated 28.09.2018 passed by the Commissioner of Customs (Appeals), Mumbai Zone-I)

M/s National Fertilizers Ltd.

.... Appellant

Versus

**Commissioner of Customs (Import),
Mumbai**

.... Respondent

Appearance:

Shri R. Krishnan, Advocate for the Appellant

Shri Sydney D'Silva, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86075/2023

Date of Hearing: 26.06.2023

Date of Decision: 26.06.2023

Per: S.K. Mohanty

This appeal is directed against the impugned order dated 28.09.2018 passed by the learned Commissioner of Customs (Appeals), Mumbai Zone-I, wherein he has upheld the adjudication order dated 12.05.2016 denying the benefit of interest claimed by the applicant under Section 27A of the Customs Act, 1962.

2. The appellant has assailed the impugned order on the ground that the disputed amount in question was deposited by the appellant way back in the year 1997-1998 and since the refund amount was finally sanctioned in 2016, the appellant should be entitled/eligible for the benefit of interest provided under Section 27 *ibid*.

3. Heard both sides and examined the case records.

4. It is an admitted fact on record that the disputed Bills of Entry were provisionally assessed as the import took place classifying the imported goods under CTH 98.01, for expansion of fertilizer project of the appellant under the Project Imports Regulations, 1986. The said Scheme of 'Project Imports' provides that all the goods imported for the purpose of setting up of Industrial Project or substantial expansion of existing industrial projects be subjected to single classification under heading 98.01 of the First Schedule to the Custom Tariff Act, 1975 and single rate of duty instead of merit assessment of imported goods. For this purpose, Project imports registration as mandated by Project Imports Regulations, 1986, require that every importer claiming assessment of the goods falling under the said heading No. 98.01, on or before their importation shall apply in writing to the proper officer at the port where the goods are to be imported or where the duty is to be paid for registration of the contract or contracts; and the Customs authorities to make assessment of all imported goods provisionally at the time of import and for finalization of the such provisional assessment within three months from the date of clearance for home consumption of the last consignment of the project imports or within such extended period as the proper officer may allow, as per Regulation 7 of the Regulations, *ibid*.

5. We further find that finalization of the contract under the project imports, along with final assessment of all the Bills of Entry by the proper officer were ordered on 15.01.2015, which is evident from the order portion in para 8 at page no. 5, of the Order-in-Original dated 15.01.2015, wherein it has been categorically stated that the final assessment of the Bill of Entry No. 3316 dated 09.01.1996 and all remaining Bills of entry for the imported goods under CTH 98.01 were finalized by the Department. Subsequent to finalization of the assessment, the appellant had filed refund application on 19.02.2015 and upon pointing out deficiencies in the said refund application by the department, the appellants made good such deficiencies by appellant's letter last dated 10.02.2016, as recorded in the findings at para 12.7 of the impugned order. The refund application of the appellant was considered favourably by the Department vide order-in-original dated 10.05.2016. The said order passed by the original authority was not appealed against by

Revenue and as a consequence, the refund application filed by the applicant was considered and the amount of refund was sanctioned in favour of the applicant.

6. On perusal of the case records, we find that the refund in question, in the present case, was sanctioned within three months from the date of filing of the complete refund application. Insofar as interest claim is concerned, Section 27A *ibid* mandates that if any duty ordered to be refunded under sub-section (2) of Section 27 *ibid*, is not refunded within three months from the date of receipt of the complete refund application, then there shall be paid to the applicant interest at such rate as prescribed. In the case in hand, since the Department has sanctioned the refund claimed within three months from the date of its filing, we are of the considered view that the provision of Section 27A cannot have any application for grant of interest in favour of the applicant.

7. In view of the above discussions, we do not find any merit in the appeal filed by the appellant and accordingly dismiss the same.

(Order dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)