CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH
E-Hearing

Customs Appeal No. 85804 of 2022

(Arising out of Order-in-Appeal No. 05 (Gr.VA)/2022(JNCH)/Appeals dated 07.01.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II)

Lotus Herbals Color Cosmetics **Appellant**
80-B, EPIP, Phase-I, Jharmalri,
Baddi, Solan (HP) – 173 205.

Vs.

Commissioner of Customs, Nhava Sheva-V **Respondent**
JNPT, Custom House, Nhava Sheva, Raigad 400 707.

Appearance:

Shri Sudhir Malhotra, Advocate, for the Appellant
Shri Rajiv Ranjan, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

Date of Hearing: 28.03.2025
Date of Decision: 21.04.2025

FINAL ORDER No. 85730/2025

Brief facts of the case are that the appellant imported Filling machine and parts of the same and filed Bill of Entry bearing No. 7362042 on 27.03.2020 at J.N. Custom House, Nhava Sheva for clearance of the same under EPCG scheme. Appellant did not have EPCG authorization on the date of filing of Bill of Entry. Subsequently, due to COVID pandemic, there was lockdown all over the country. EPCG authorization bearing No. 0530175974 dated 03.06.2020 was issued to the appellant. With the said authorization, appellant approached Customs authorities for clearance of the said machine. As per record, appellant was verbally directed by officers of Customs looking after assessment of goods under Group-V at J.N. Custom House, Nhava Sheva to pay interest of Rs.1,02,818/- stating that unless the said interest is paid, the goods shall not be cleared. On the basis of oral directions, appellant deposited interest of Rs.1,02,818/- vide challan HCM1258 dated 25.06.2020. Subsequently the goods were cleared on 07.07.2020 by accepting EPCG authorization at nil rate of customs duty since the goods were exempted from payment of customs duty under Notification No.16/2015-Cus. Dated 01.04.2015 with a condition that valid EPCG authorization is available. After the goods were handed over possession after passing the out of charge order, appellant preferred appeal against the said assessment of the said Bill of Entry before learned Commissioner (Appeals) claiming that the interest was demanded from the appellant on oral directions without any authority of law. Appellant contended before learned Commissioner (Appeals) that there has not been any legal order or legal authority cited by the officers of Customs who directed the appellant to pay interest before clearance of the goods and that the goods attracted nil rate of duty and the provisions of Customs Act authorized collection of interest if there was delay in payment of customs duty. Learned Commissioner (Appeals) decided the said appeal through impugned order-in-appeal dated 07.01.2022. Learned Commissioner (Appeals) has recorded in para 7 of order-in-appeal that the appellant had deposited interest of Rs.1,02,818/- on 25.06.2020 in respect of the said Bill of Entry dated 27.03.2020 and further held that since the appellant had not paid interest under protest, the appeal was rejected. Aggrieved by the said order, appellant is before this Tribunal.

2. Heard the learned counsel for the appellant. He has submitted that on oral directions, interest was deposited before clearance of goods and that the goods were cleared at nil rate of duty. Further he has submitted that Customs law requires payment of interest if there is delay in payment of customs duty. He has submitted that in the present case since the goods were assessed at nil rare of duty, the question of requirement of payment of interest does not arise and, therefore, the amount so deposited towards interest deserves to be refunded to the appellant.

3. Heard the learned AR. Learned AR has submitted that as per the order issued by Commissioner of Customs from F.No. 26-MISC-604/2020-21 Gr.V dated 19.06.2020, if warehousing was not done, interest was required to be paid for intervening period and accordingly payment of interest for intervening period vide

challan No. HCM 1238 dated 25.06.2020 amounting to Rs.1,02,818/- was collected.

4. I have carefully gone through the record of the case and submissions made. I have noted the submissions by departmental representative that there were directions from Commissioner of Customs through a miscellaneous order passed on 19.06.2020 for collection of interest. Neither the Commissioner of Customs in the said miscellaneous order dated 19.06.2020 has indicated any authority of law vested in him by any of the provisions of Customs Act, 1962 that he can pass such an order, nor the representative of Revenue could point out any provisions of law which required the appellant to pay the said interest. On the contrary, learned counsel for the appellant has pointed out that interest is to be paid for delay in payment of customs duty. I note that in the present case nil customs duty was charged for clearance of the said goods and, therefore, I hold that that there was no authority of law for the Customs officers to direct the appellant to pay interest of the said amount. I, therefore, direct the authorities under the Department of Revenue to refund the said amount of Rs.1,02,818/- to the appellant within a period of one month from passing of this order.

5. In above terms, the appeal is allowed after setting aside the impugned order-in-appeal.

(Pronounced in the court on 21.04.2025)

(Anil G. Shakkarwar)
Member (Technical)

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